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T R E A T I S E
ON THE
SOCIAL COMPACT;
OR
The PRINCIPLES of
P O L I T I C L A W.

By J. J. ROUSSEAU,

Citizen of GENEVA.

Fœdus æquas
Dicamus leges. Æneid. xi.

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THE PRINCIPLES OF

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AND A SHORT HISTORY

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ADVERTISEMENT.

THIS little treatise is taken from a much larger work, in which I formerly engaged, without having duly consulted my abilities. I have, therefore, long since laid it aside; conceiving it proper to offer the following extract only to the public, as the least extionable part of the performance.

ARTIST'S STATEMENT.

It is the artist's duty to create a work of art which is not only beautiful but also instructive. The artist should strive to express the truth and the beauty of the world as he sees it. He should not be content with mere imitation, but should seek to create something new and original. The artist's statement is a declaration of his purpose and his principles. It is a statement of his faith in the power of art to improve the human condition. It is a statement of his belief in the value of the individual and of the importance of the creative process. The artist's statement is a statement of his soul.

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A

T R E A T I S E

O N T H E

S O C I A L C O M P A C T, &c.

B O O K I.

I N T R O D U C T I O N.

MY design, in the present treatise, is to inquire, Whether the nature of society admits of any fixed and equitable rules of government, supposing mankind to be such as they are, and their laws such as they might be made. In this investigation I shall endeavour constantly to join the considerations of natural right and public interest, so that justice and utility may never be disunited.

This being premised, I shall enter on my subject, without expatiating on its importance. If

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2 A TREATISE ON THE

it be asked, Whether I am a prince or legislator, that I thus take upon me to write on politics? I answer, I am neither; and that it is for this reason I write: Were I a prince or legislator I would not throw away my time in pointing out what ought to be done; I would myself put it in practice, or be silent.

As the citizen of a free state, and a member of the supreme power, by birth, however weak may be the influence of my single vote in public affairs, the right of giving that vote is sufficient to impose on me the duty of making those affairs my study, thinking myself happy in discussing the various forms of government, to find every day new reasons for admiring that of my own country *!

C H A P. I.

The subject of the first book.

MAN is born free, and yet is universally enslaved. At the same time, an individual frequently conceives himself to be the lord and master over others, though only more eminently deprived of liberty. Whence can this change arise? Are there any means by which it may be rendered lawful? The former ques-

* Geneva.

tion I cannot answer, though I imagine myself capable of resolving the latter.

If I took into consideration only the existence and effects of power, I should say, So long as a people are compelled to obey, they do well to be obedient ; but, as soon as they are in a capacity to resist, they do better to throw off the yoke of restraint : For, in recovering their liberty on the same plea by which they lost it, either they have a just right to reassume it, or those could have none who deprived them of it. But there is an inviolable right founded on the very nature of society, which serves as the basis of all others. Man doth not derive this right, however, immediately from nature ; it is founded on mutual convention. We must proceed, then, to inquire, of what kind such convention must have been. But, before we come to argue this point, I should establish what I have already advanced.

CHAP. II.

On the primitive state of society.

THE most ancient of all societies, and the only natural one, is that of a family. And even in this, children are no longer connected with their father, than while they stand in need of his assistance. When this becomes

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needless, the natural tie is of course dissolved, the children are exempted from the obedience they owe their father, and the father is equally so from the solicitude due from him to his children; both assume a state of independence respecting each other. They may continue, indeed, to live together afterwards; but their connection, in such a case, is no longer natural, but voluntary; and even the family union is then maintained by mutual convention.

This liberty, which is common to all mankind, is the necessary consequence of our very nature; whose first law being that of self-preservation, our principal concerns are those which relate to ourselves; no sooner, therefore, doth man arrive at years of discretion, than he becomes the only proper judge of the means of that preservation, and of course his own master.

In a family, then, we may see the first model of political societies: their chief is represented by the father, and the people by his children, while all of them being free, and equal by birth, they cannot alienate their liberty, but for their common interest. All the difference between a family and a state, lies in this, That, in the former, the love which a father naturally bears to his children is a compensation for his solicitude concerning them; and, in the latter, it is the pleasure
of

of command that supplies the place of this love, which a chief doth not entertain for his people.

Grotius denies that government is invested with power solely for the benefit of those who are governed, and cites the case of slaves as an example. It is, indeed, his constant practice, to establish the matter of right on the matter of fact *. He might have employed a more conclusive method, though not a more favourable one for tyrannical governments.

It is then doubtful, according to Grotius, whether the whole race of mankind, except about an hundred individuals, belong to those individuals, or whether the latter belong to the whole race of mankind; and he appears, throughout his whole work, to lean to the former opinion. This is also the opinion of Hobbes. Thus they divide the human species into herds of cattle, each of which hath its keeper, who protects it from others, only that he may make a property of it himself.

* "The learned researches into the laws of nature and nations are often nothing more than the history of ancient abuses; so that it is a ridiculous infatuation to be too fond of studying them." *Manuscript Treatise on the Interests of France, by the Marquis d'A.* This was exactly the case with Grotius.

6 A TREATISE ON THE

As a shepherd is of a superior nature to his flock, so the herd-keepers of men, or their chiefs, are of a superior nature to the herd, over which they preside. Such was the reasoning, according to Philo, of the Emperor Caligula, who concluded logically enough from this analogy, that either kings were gods, or their subjects no better than brutes.

This argument of Caligula bears much resemblance to those of Hobbes and Grotius. Aristotle had said, indeed, before either of them, that men were not naturally equal; but that some of them were born to slavery, and others to dominion.

Aristotle was right as to the fact, but mistook the effect for the cause. Nothing is more certain, than that every man born in slavery is born to be a slave. In such a state, men lose even the desire of freedom, and prefer subjection, as the companions of Ulysses did their brutality *. If there are any slaves, therefore, by nature, it is because they are slaves contrary to nature. Power first made slaves, and cowardice hath perpetuated them.

* See a little tract written by Plutarch, on the rationality of brutes.

I have

I have said nothing of king Adam, or the emperor Noah, father of three monarchs, who, like the children of Saturn, as some have imagined them to be, divided the world among them. I hope my moderation also in this respect will be esteemed some merit; for, as I am descended in a right line from one of these princes, and probably from the eldest branch of the family, how do I know, that, by a regular deduction of my descent, I might not find myself the legitimate heir to universal monarchy? Be this, however, as it may, it cannot be denied, that Adam had as good a title to the sovereignty of the world, when he was the only person in it, as Robinson Crusoe had to that of his island under the same circumstances. A very great conveniency also attended their government, in that the monarch might rest securely on his throne, without fear of wars, conspiracies, or rebellion.

CH A P. III.

On the right of the Strongest.

THE strongest is not strong enough to continue always master, unless he transforms his power into a right of command, and obedience into a duty. Hence is deduced the right of the strongest; a right taken ironically in ap-

pearance, and laid down as an established principle in reality. But will this term never be rightly explained? Force, in the simplest sense, is a physical power; nor can I see what morality can result from its effects. To yield to superior force is an act of necessity, not of the will; at most it is but an act of prudence. And in what sense can this be called a duty?

Let us suppose, however, for a moment, this pretended right established, and we shall see it attended with inexplicable absurdities; for, if it be admitted, that power constitutes right, the effect changes with the cause, and every succeeding power, if greater than the former, succeeds also to the right; so that men may lawfully disobey, as soon as they can do it, with impunity; and, as right is always on the strongest side, they have nothing more to do, than to acquire superior force. Now what kind of right can that be, which vanishes with the power of enforcing it? If obedience be only exacted by compulsion, there is no need to make such obedience a duty, as when we are no longer compelled to obey, we are no longer obliged to it. It appears, therefore, that the word *right* adds nothing in this case to that of force, and, in fact, is a term of no signification.

SOCIAL COMPACT. 9

Be obedient to the higher powers. If by this precept is meant, *subject to a superior force*, the advice is good, though superfluous; I will answer for it, such a rule will never be broken. All power, I own, is derived from God; but every corporeal malady is derived also from the same source. But are we therefore forbid to call in the physician? If a robber should stop me on the highway, am I not only obliged, on compulsion, to give him my purse, but am I also obliged to it in point of conscience, though I might possibly conceal it from him? This will hardly be averred; and yet the pistol he holds to my breast, is, in effect, a superior force.

On the whole, we must conclude, then, that mere power doth not constitute right, and that men are obliged only to pay obedience to lawful authority. Thus we are constantly recurring to my first question.

C H A P. IV.

On slavery.

AS no man hath any natural authority over the rest of his species, and as power doth not confer right, the basis of all lawful authority is laid in mutual convention.

If an individual, says Grotius, can alienate his liberty, and become the slave of a master, why may not a whole people collectively alienate theirs, and become subject to a king? This proposition, however, contains some equivocal terms, which require explanation, but I shall confine myself to that of *alienate*. Whatever is alienated must be disposed of, either by gift or sale. Now a man who becomes the slave of another doth not give himself away, but sells himself, at least for his subsistence; but why should a whole people sell themselves? So far is a king from furnishing his subjects subsistence, that they maintain him; and, as our friend Rabelais says, A king doth not live on a little. Can subjects be supposed to give away their liberty, on condition that the receiver shall take their property along with it? After this, I really cannot see any thing they have left.

It may be said, a monarch maintains among his subjects the public tranquillity. Be it so; I would be glad to know, of what they are gainers, if the wars in which his ambition engages them, if his insatiable avarice, or the oppressions of his ministers, are more destructive than civil dissensions? Of what are they gainers, if even this tranquillity be one cause of their misery? A prisoner may live tranquil enough in his dungeon; but will this be sufficient to make him contented there? When the Greeks were shut
up

SOCIAL COMPACT. II

up in the cave of the Cyclops, they lived there unmolested, in expectation of their turn to be devoured.

To say, that a man can give himself away, is to talk unintelligibly and absurdly; such an act must necessarily be illegal and void, were it for no other reason, than that it argues insanity of mind in the agent. To say the same thing of a whole people therefore, is to suppose a whole nation can be at once out of their senses; but were it so, such madness could not confer right.

Were it possible also for a man to alienate himself, he could not, in the same manner, dispose of his children, who, as human beings, are born free; their freedom is their own, and nobody hath any right to dispose of it but themselves. Before they arrive at years of discretion, indeed, their father may, for their security, and in their name, stipulate the conditions of their preservation, but he cannot unconditionally and irrevocably dispose of their persons, such a gift being contrary to the intention of nature, and exceeding the bounds of paternal authority. It is requisite, therefore, in order to render an arbitrary government lawful, that every new generation should be at liberty to admit or reject its authority, in which case it would be no longer an arbitrary government.

To renounce one's natural liberty, is to renounce one's very being as a man; it is to renounce not only the rights, but even the duties of humanity. And what possible indemnification can be made the man who thus gives up his all? Such a renunciation is incompatible with our very nature; for to deprive us of the liberty of the will, is to take away all morality from our actions. In a word, a convention, which stipulates on the one part absolute authority, and on the other implicit obedience, is, in itself, futile and contradictory. Is it not evident, that we can lie under no reciprocal obligation whatever to a person, of whom we have a right to demand every thing; and doth not this circumstance, against which he has no equivalent, necessarily infer such act of convention to be void? For what claim can my slave have upon me, when he himself, and all that belongs to him, are mine? His claims are of course my own, and to say those can be set up against me, is to talk absurdly.

Again, Grotius and others have deduced the origin of this pretended right from the superiority obtained in war. The conqueror, say they, having a right to put the vanquished to death, the latter may equitably purchase his life at the expence of his liberty; such an agreement being

the more lawful, as it conduces to the mutual advantage of both parties.

It is clear and certain, however, that this pretended right of the victor over the lives of the vanquished is not, in any shape, the natural result of a state of war. This is plain, were it for no other reason than that the reciprocal relations of mankind, while living together in their primitive independence, were not sufficiently durable, to constitute a state, either of peace or war; so that men cannot be naturally enemies. It is the relation subsisting between things, and not between men, that gives rise to war; which arising thus, not from personal, but real, relations, cannot subsist between man and man, either in a state of nature, in which there is no settled property, or in a state of society, in which every thing is secured by the laws.

The quarrels, encounters and duels of individuals are not sufficient to constitute such a state of war; and, with regard to the particular combats authorised by the institutions of Lewis XI. King of France; they were only some of the abuses of the feudal government, a system truly absurd, as contrary to the principles of natural justice, as of good policy.

War is not, therefore, any relation between man and man, but a relation between state and state, in which individuals are enemies only accidentally, not as men, or even as citizens, but as soldiers; not as members of their particular community, but as its defenders. In short, a state can have for its enemy nothing but a state, not men; as between things essentially different, there can be no common relation.

This principle is, indeed, conformable to the established maxims of all ages, and the constant practice of every civilized people. Declarations of war are made less to give notice to sovereigns, than to their subjects.

The foreigner, whether a sovereign, an individual, or a people, who plunders, kills, or takes prisoner a subject, without declaring war against his prince, is not an enemy, but a robber. Even in a time of war, a just prince may make himself master, in an enemy's country, of whatever belongs to the public, but he will respect the persons and private properties of individuals; he will respect those rights on which his own are founded. The design of war being the destruction of an hostile state, we have a right to kill its defenders, while they are in arms; but as, in laying down their arms, they cease to be enemies,

- or

or instruments of hostility, they become, in that case, mere men, and we have not the least right to murder them. It is sometimes possible effectually to destroy a state, without killing even one of its members; now war cannot confer any right or privilege, which is not necessary to accomplish its end and design. It is true, these are not the principles of Grotius, nor are they founded on the authority of the poets; but they are such as are deduced from the nature of things, and are founded on reason.

With regard to the right of conquest, it has no other foundation than that of force, the law of the strongest. But, if war doth not give the victor a right to massacre the vanquished, this pretended right, which does not exist, cannot be the foundation of a right to enslave them. If we have no right to kill an enemy, unless we cannot by force reduce him to slavery, our right to make him a slave never can be founded on our right to kill him. It is, therefore, an iniquitous bargain, to make him purchase, at the expence of liberty, a life, which we have no right to take away. In establishing thus a right of life and death over others, on that of enslaving them; and, on the other hand, a right of enslaving them on that of life and death, we certainly fall into the absurdity of reasoning in a circle.

Let

Let us suppose, however, that this shocking right of general massacre existed, I still affirm, that a slave, made so by the fortune of war, or a conquered people, so reduced to slavery, lie under no other obligations to their master, than to obey him so long as he hath the power to compel them to it. In accepting of an equivalent for their lives, the victor confers on them no favour; instead of killing them uselessly, he hath only varied the mode of their destruction to his own advantage. So far, therefore, from his having acquired over them any additional authority, the state of war subsists between them as before; their relation to each other is the evident effect of it, and his exertion of the rights of war is a proof, that no treaty of peace hath succeeded. Will it be said, they have made a convention; be it so: This convention is a mere truce, and is so far from putting an end to the state of war, that it necessarily implies its continuation.

Thus, in whatever light we consider this affair, the right of making men slaves is null and void, not only because it is unjust, but because it is absurd and insignificant. The terms *slavery* and *justice* are contradictory and reciprocally exclusive of each other. Hence the following proposal

posal would be equally ridiculous, whether made by one individual to another, or by a private man to a whole people. *I enter into an agreement with you, altogether at your own charge, and solely for my profit, which I will observe as long as I please, and which you are to observe also, as long as I think proper.*

CHAP. V.

On the necessity of recurring always to the primitive convention.

ON the supposition, that I should grant to be true what I have hitherto disproved, the advocate for despotism would, however, profit but little. There will be always a great difference between subjecting a multitude, and governing a society. Let individuals, in any number whatever, become severally and successively subject to one man, they are all, in that case, nothing more than master and slaves; they are not a people governed by their chief; they are an Aggregate if you will, but do not form an association; there subsists among them neither commonwealth nor body politic. Such a superior, though he should become the master of half the world, would be still a private person, and his interest, separate and distinct from that of his people, would be still no more than a private

private interest. When such a person dies, also the empire over which he presided is dissolved, and its component parts remain totally unconnected, just as an oak falls into a heap of ashes, when it is consumed by the fire.

A people, says Grotius, may voluntarily bestow themselves on a king: According to Grotius, therefore, a people are a people before they thus give themselves up to regal authority. Even this gift, however, is an act of society, and presupposes a public deliberation on the matter. Hence, before we examine into the act, by which a people make choice of a king, it is proper to examine into that by which a people became a people, for, on this, which is necessarily prior to the other, rests the true foundation of society.

For, if, in fact, there be no prior convention, whence arises (unless indeed the election was unanimous) the obligation of the smaller number to submit to the choice of the greater? and whence comes it, that an hundred persons, for instance, who might desire to have a master, had a right to vote for ten others who might desire to have none? The choice by a plurality of votes is in itself an establishment of convention, and supposes, that unanimity must at least for once have subsisted among them.

C H A P.

C H A P. VI.

On the social pact or covenant.

I Suppose mankind arrived at that term, when the obstacles to their preservation, in a state of nature, prevail over the endeavours of individuals, to maintain themselves in such a state. At such a crisis this primitive state therefore could no longer subsist, and the human race must have perished, if they had not changed their manner of living.

Now as men cannot create new powers, but only compound and direct those which really exist, they have no other means of preservation, than that of forming, by their union, an accumulation of forces, sufficient to oppose the obstacles to their security, and of putting these in action by a first mover, capable of making them act in concert with each other.

This general accumulation of power cannot arise but from the concurrence of many particular forces; but the force and liberty of each individual being the principal instruments of his own preservation, how is he to engage them in the common interest, without hurting his own, and neglecting the obligations he lies under to himself?

himself? This difficulty, being applied to my present subject, may be expressed in the following terms :

“ To find that form of association which shall protect and defend, with the whole force of the community, the person and property of each individual, and in which each person, by uniting himself to the rest, shall nevertheless be obedient only to himself, and remain as fully at liberty as before.” Such is the fundamental problem, of which the social compact gives the solution.

The clauses of this compact are so precisely determined by the nature of the act, that the least restriction or modification renders them void and of no effect ; in so much, that, although they may perhaps never have been formally promulgated, they are yet universally the same, and are every where tacitly acknowledged and received. When the social pact, however, is violated, individuals recover their natural liberty, and are re-invested with their original rights, by losing that conventional liberty for the sake of which they had renounced them.

Again ; these clauses, well understood, are all reducible to one, *viz.* the total alienation of every individual, with all his rights and privileges,

leges, to the whole community. For, in the first place, as every one gives himself up entirely and without reserve, all are in the same circumstances, so that no one can be interested in making their common connection burthensome to others.

Besides, as the alienation is made without reserve, the union is as perfect as possible, nor hath any particular associate any thing to reclaim; whereas, if they should severally retain any peculiar privileges, there being no common umpire to determine between them and the public, each being his own judge in some cases, would, in time, pretend to be so in all, the state of nature would still subsist, and their association would necessarily become tyrannical or void.

In fine, the individual, by giving himself up to all, gives himself to none; and, as he acquires the same right over every other person in the community, as he gives them over himself, he gains an equivalent for what he bestows, and still a greater power to preserve what he retains.

If, therefore, we take from the social compact every thing that is not essential to it, we shall find it reduced to the following terms: "We, the contracting parties, do jointly and severally submit our persons and abilities, to the supreme direction of the general will of all, and, in a collective

collective body, receive each member into that body, as an indivisible part of the whole."

This act of association accordingly converts the several individual contracting parties into one moral collective body, composed of as many members as there are votes in the assembly, which receives also from the same act its unity and existence. This public personage, which is thus formed by the union of all its members, used formerly to be denominated a CITY *, and, at present,

* The true sense of this word is almost entirely perverted among the moderns; most people take a town for a city, and an house-keeper for a citizen. Such are ignorant, however, that, though houses may form a town, it is the citizens only that constitute a city. This same error formerly cost the Carthaginians very dear. I do not remember, in the course of my reading, to have ever found the title of *Cives* given to the subjects of a prince, not even formerly to the Macedonians, nor, in our times, to the English, though more nearly bordering on liberty than any other nation. The French are the only people who familiarly take on themselves the name of *citizens*, because they have no just idea of its meaning, as may be seen in their dictionaries; for, were it otherwise, indeed, they would be guilty of high treason in assuming it. This term is with them rather expressive of a virtue than a privilege. Hence, when Bodin spoke of the citizens and inhabitants of Geneva,

present, takes the name of a *republic*, or *body politic*. It is also called, by its several members, a *state*, when it is passive; the *sovereign*, when it is active; and simply a *power*, when it is compared with other bodies of the same nature. With regard to the associates themselves, they take collectively the name of the *people*, and are separately called *citizens*, as partaking of the sovereign authority, and *subjects*, as subjected to the laws of the state. These terms, indeed, are frequently confounded, and mistaken one for the other; it is sufficient, however, to be able to distinguish them, when they are to be used with precision.

C H A P. VII.

Of the sovereign.

IT is plain from the above formula, that the act of association includes a reciprocal engagement between particulars and the public;

nevera, he committed a wretched blunder, in mistaking one for the other. Mr. d'Alembert indeed has avoided this mistake in the Encyclopædia, where he has properly distinguished the four orders of people (and even five, reckoning mere strangers) that are found in our city, and of which two only compose the republic: No other French author that I know of hath ever comprehended the meaning of the word *citizen*.

and

and that each individual, in contracting, if I may so say, with himself, is laid under a twofold engagement, *viz.* as a member of the sovereignty toward particular persons, and as a member of the state toward the sovereign. That maxim of the civil law, however, is inapplicable here, which says, that no one is bound by the engagements he enters into with himself; for there is a wide difference between entering into a personal obligation with one's self, and with a whole, of which one may constitute a part.

It is farther to be observed, that the public determination, which is obligatory on the subject, with regard to the sovereign, on account of the twofold relation by which each stands contracted, is not, for the contrary reason, obligatory on the supreme power towards itself: and that it is consequently inconsistent with the nature of the body politic, that such supreme power should impose a law, which it cannot break. For, as the sovereign stands only in a single relation, it is in the same case as that of an individual contracting with himself; whence it is plain, that there neither is, nor can be, any fundamental law obligatory on the whole body of a people, even the social compact itself not being such. By this, however, it is not meant, that such a body cannot enter into engagements with others, in matters that do not derogate from

from this contract; for, with respect to foreign objects, it is a simple and individual person.

But, as the body politic, or the sovereign, derives its very existence from this inviolable contract, it can enter into no lawful engagement, even with any similar body, derogatory from the tenour of this primitive act; such as that of alienating any part of itself, or of submitting itself intirely to a foreign sovereign. To violate the act whereby it exists would be to annihilate itself, and from nothing can arise nothing.

No sooner are a multitude of individuals thus united in a body, than it becomes impossible to act offensively against any of the members, without attacking the whole, and still less to offend the whole body, without injuring the members. Hence both duty and interest equally oblige the two contracting parties to assist each other, and the same persons ought to endeavour to include, within this twofold relation, all the advantages which depend on it.

Now the sovereign, being formed only by the several individuals of which the state is composed, can have no interest contrary to theirs; of course the supreme power stands in no need of any guarantee toward the subjects, because it is impossible,

impossible, that the body should be capable of hurting all its members; and we shall see hereafter, that it can as little tend to injure any of them in particular. Hence the sovereign is necessarily, and for the same reason that it exists, always such as it ought to be.

The case is different, however, as to the relation in which the subjects stand to the sovereign; as, notwithstanding their common interest, the latter can have no security that the former will discharge their engagements, unless means be found to engage their fidelity.

In fact, every individual may, as a man, entertain a particular will, either contradictory or dissimilar to his general will, as a citizen. His private interest may influence him, in a manner diametrically opposite to the common interest of the society. Reflecting on his own existence as positive and naturally independent, he may conceive what he owes to the common cause, to be a free and gratuitous contribution, the want of which will be less hurtful to others, than the discharge of it will be burthensome to himself; and, regarding the moral person of the state as an imaginary being, because it is not a man, he may be desirous of enjoying all the privileges of a citizen, without fulfilling his engagement as a subject;

subject ; an injustice, that, in its progress, must necessarily be the ruin of the body politic.

To the end, therefore, that the social compact should not prove an empty form, it tacitly includes this engagement, which only can enforce the rest, *viz.* that whosoever refuses to pay obedience to the general will, shall be liable to be compelled to it by the force of the whole body. And this is in effect nothing more, than that they may be compelled to be free ; for such is the condition which, in uniting every citizen to the state, secured him from all personal dependence ; a condition, which forms the whole artifice and play of the political machine : it is this alone that renders all social engagements just and equitable which, without it, would be absurd, tyrannical, and subject to the most enormous abuses.

C H A P. VIII.

Of civil society in general.

THE transition of man from a state of nature to a state of society is productive of a very remarkable change in his being, by substituting justice instead of instinct, as the rule of his conduct, and attaching that morality to his actions, of which they were before destitute. It is in immediate consequence of this change, when

the voice of duty succeeds to physical impulse and the law of appetite, that man, who hitherto regarded only his own gratification, finds himself obliged to act on other principles, and to consult his reason, before he follows the dictates of his passions. Although, by entering into a state of society, he is deprived also of many advantages which depend on that of nature, he gains by it others so very considerable, his faculties exert and expand themselves, his ideas are enlarged, his sentiments ennobled, and his whole soul is elevated to so great a degree, that, if the abuses of this new state do not degrade him below the former, he ought incessantly to bless that happy moment in which he was rescued from it, and converted from a stupid and ignorant animal into an intelligent and wise Being.

To state the balance of what is lost and gained by this change, we shall reduce it to comparative terms. By entering into the social compact, man gives up his natural liberty, or unlimited right to every thing which he is desirous of, and can attain. In return for this, he gains social liberty, and an exclusive property in all those things of which he is possessed. To avoid any mistake, however, in the nature of these compensations, it is necessary to make a just distinction between natural liberty, which is limited

by nothing but the inabilities of the individual, and social liberty, which is limited by the general will of the community; and also, between that possession, which is only effected by force, or follows the right of prior occupancy, and that property, which is founded only on a positive title.

To the preceding also may be added, as the acquisition of a social state, moral liberty, which only renders a man truly master of himself: for to be under the direction of appetite alone is to be in a state of slavery, while to pay obedience only to those laws which we prescribe to ourselves, is liberty. But I have said too much already on this subject, the philosophical meaning of the word Liberty being, in this place, out of the question.

CH A P. IX.

Of real demesnes.

EAch member of the community, in becoming such, devotes himself to the public from that moment, in such a state as he then is, with all his power and abilities, of which abilities his possessions make a part. Not that in consequence of this act the possession changes its nature, by changing hands, and becomes actual

property in those of the sovereignty ; but as the power of the community is incomparably greater than that of an individual, the public possession is in fact more fixed and irrevocable, without being more lawful, at least with regard to foreigners. For every state is, with respect to its members, master of all their possessions, by virtue of the social compact, which, in a state, serves as the basis of all other rights ; but, with regard to other powers or states, it is master of them only, by the right of prior occupancy, which it derives from individuals.

The right of prior occupancy, although more real than that of the strongest, becomes not an equitable right, till after the establishment of property. Every man hath naturally a right to every thing which is necessary for his subsistence ; but the positive act by which he is made the proprietor of a certain possession excludes him from the property of any other. His portion being assigned him, he ought to confine himself to that, and hath no longer any right to a community of possession. Hence it is that the right of prior occupancy, though but of little force in a state of nature, is so respectable in that of society. The point to which we are chiefly directed in the consideration of this right, is rather

ther what belongs to another, than what does not belong to us.

To define the right of prior occupancy in general terms, it is founded on the following conditions. It is requisite, in the first place, that the lands in question should be unoccupied; secondly, that no greater quantity of it should be occupied than is necessary for the subsistence of the occupiers; and, in the third place, that possession should be taken of it, not by a vain ceremony, but by actual cultivation, the only mark of property, which, in defect of juridical titles, should be at all respected.

To allow the first occupier a right to as much territory as he may cultivate, and is necessary to his subsistence, is certainly carrying the matter as far as is reasonable. Otherwise we know not how to set bounds to this right. Is it sufficient for a man to set foot on an uninhabited territory, to pretend immediately an exclusive right to it? Is it sufficient for him to have power enough at one time to drive others from the spot, to deprive them for ever afterwards of the right of returning to it? How can a man, or even a whole people, possess themselves of an immense territory, and exclude from it the rest of mankind, without
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being guilty of an illegal usurpation; since, by so doing, they deprive the rest of mankind of an habitation, and those means of subsistence, which nature hath given in common to them all? When Nunez Balbao stood on the sea-shore, and, in the name of the crown of Castile, took possession of the Pacific Ocean, and of all South-America, was this sufficient to dispossess all the inhabitants of that vast country, and exclude all the other sovereigns in the world? On such a supposition, the like idle ceremonies might have been ridiculously multiplied, and his Catholic Majesty would have had no more to do, than to have taken possession in his closet of all the countries in the world, and to have afterwards only deducted from his empire such as were before possessed by other princes.

It is easy to conceive, how the united and contiguous estates of individuals become the territory of the public, and in what manner the right of sovereignty, extending itself from the subjects to the lands they occupy, becomes at once both real and personal; a circumstance which lays the possessors under a state of the greatest dependence, and makes even their own abilities a security for their fidelity. This is an
advantage

advantage which does not appear to have been duly attended to, by sovereigns among the ancients, who, by stiling themselves only kings of the Persians, the Scythians, the Macedonians, seemed to look on themselves only as chief of men, rather than as masters of a country. Modern princes more artfully stile themselves the kings of England, France, Spain, &c. and thus, by claiming the territory itself, are secure of the inhabitants.

What is very singular in this alienation is, that the community, in accepting the possessions of individuals, is so far from despoiling them thereof, that, on the contrary, it only confirms them in such possessions, by converting an usurpation into an actual right, and a bare possession into a real property. The possessors also being considered as the depositaries of the public wealth, while their rights are respected by all the members of the state, and maintained by all its force against any foreign power, they acquire, if I may so say, by a cession advantageous to the public, and still more so to themselves, every thing they ceded by it: a paradox which is easily explained by the distinction to be made between the rights which the sovereign and the

proprietor have in the same fund, as will be seen hereafter.

It may also happen, that men may form themselves into a society, before they have any possessions; and that, acquiring a territory sufficient for all, they may possess it in common, or divide it among them, either equally, or in such different proportions as may be determined by the sovereign. Now, in whatsoever manner such acquisition may be made, the right which each individual has to his own estate, must be always subordinate to the right which the community hath over the possessions of all; for, without this, there would be nothing binding in the social tie, nor any real force in the exercise of the supreme power.

I shall end this book, with a remark, that ought to serve as the basis of the whole social system: and this is, that, instead of annihilating the natural equality among mankind, the fundamental compact substitutes, on the contrary, a moral and legal equality, to make up for that natural and physical difference which prevails among individuals, who, though unequal in personal

sonal strength and mental abilities, become thus all equal by convention and right*.

* This equality, indeed, is under some governments merely apparent and delusive, serving only to keep the poor still in misery, and favour the oppression of the rich. And, in fact, the laws are always useful to persons of fortune, and hurtful to those who are destitute: whence it follows, that a state of society is advantageous to mankind in general, only when they all possess something, and none of them have any thing too much.

The END of the FIRST BOOK.

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BOOK

BOOK II.

CHAP. I.

That the sovereignty is unalienable.

THE first and most important consequence to be drawn from the principles already established, is, that the general will only can direct the forces of the state agreeable to the end of its original institution, which is the common good; for, though the opposition of private interests might make the establishment of societies necessary, it must have been through the coalition of those interests, that such establishment became possible. The bonds of society must have been formed out of something common to those several interests, for, if there had been no point to which they could have been reconciled, no society could possibly have subsisted. Now it is only on these points that the government of society should be founded.

I say, therefore, that the sovereignty, being only the exertion of the general will, cannot be alienated, and that the sovereign, which is only a collective being, cannot be represented but by itself:

itself: the power of a people may be transmitted or delegated, but not their will.

It may not be absolutely impossible, that the will of an individual should agree, in some particular point, with the general will of a whole people; it is, however, impossible, that such agreement should be constant and durable, for the will of particulars always tends to make distinctions of preference, and the general will to a perfect equality. It is further still more impossible, supposing such agreement might always subsist, to have any security that it would do so, as it could never be the effect of art, but of chance. The sovereign may say, My will is now agreeable to the will of such an individual, or at least to what he pretends to be his will; but it cannot pretend to say, I agree to whatever may be the will of such individual to-morrow; as it is absurd for the will to lay itself under any restraint regarding the future, and as it is impossible for the will to consent to any thing contrary to the interest of the being whose will it is. Should a people therefore enter into the engagement of simply promising obedience, they would lose their quality, as a people, and be virtually dissolved by that very act. The moment there exists a master, there can be no longer a sovereign, the body politic being thereby destroyed.

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I would not be understood to mean, that the orders of a chief may not pass for the dictates of the general will, when the sovereign, though at liberty to contradict, does not oppose it. In such a case, it is to be presumed, from the universal silence of the people, that they give their consent. This will be farther explained in the end.

C H A P. II.

That the sovereignty is indivisible.

FOR the same reason that the sovereignty is unalienable, it is also indivisible; for the will is general*, or it is not; it is that of the body of the people, or only that of a part. In the first case, this will, when declared, is an act of sovereignty, and becomes a law: in the second, it is only a particular will, or an act of the magistracy, and is at most a decree.

But our politicians, incapable of dividing the sovereignty in its first principles, divide it in its

* In order that this will should be general, it is not always necessary it should be unanimous: it is necessary, however, that every individual should be permitted to vote; every formal exclusion infringing the generality.

object;

object ; they distinguish it into power and will ; into a legislative and executive power ; into the prerogatives of taxation, of executing justice, and of making war ; into departments of domestic and foreign administration. Sometimes they blend all these confusedly together, and, at others, consider them as distinct and separate, making out the sovereign to be a fantastic compound, just as if they should compose a man out of several bodies, of which one should have only eyes, another arms, a third feet, and nothing more. It is said of the jugglers in Japan, that they will take a child, and cut it into pieces in the presence of the spectators, then, throwing up its dismembered limbs one after another into the air, they are united, and the child descends alive, and well as before. The legerdemain of our modern politicians greatly resembles this trick of the Japanese ; for they, after having dismembered the body politic with equal dexterity, bring all its parts together by *hocus pocus* again, and represent it the same as before,

This error arises from their not having formed precise ideas of the sovereign authority, and from their mistaking the simple emanations of this authority, for parts of its essence. Thus, for instance, the acts of declaring war and making peace are usually regarded as acts of sovereignty,

reignty, which they are not ; for neither of these acts are laws, but consist only of the application of the law. Each is a particular act, determinate only of the meaning of the law in such case, as will be seen more clearly, when the idea attached to the word *law* shall be precisely settled.

By tracing, in like manner, their other divisions, we shall find, that we are constantly mistaken, whenever we think the sovereignty divided ; and that the prerogatives, which are supposed to be parts of the sovereignty, are all subordinate to it, and always suppose the predetermination of a superior will, which those prerogatives only serve to put in execution.

It is impossible to say, in how much obscurity this want of precision hath involved the reasonings of authors, on the subject of political law, when they came to examine into the respective rights of kings and people, on the principles they had established. By turning to the third and fourth chapters of the first book of Grotius, the reader may see, how that learned author and his translator, Barbeyrac, bewildered and entangled themselves in their own sophisms, through fear of saying too much or too little for their purpose, and of making those interests clash, which

which it was their business to reconcile. Grotius, being dissatisfied with his own countrymen, a refugee in France, and willing to pay his court to Lewis XIII. to whom his book is dedicated, spared no art nor pains to strip the people of their privileges, and to invest kings with prerogative. Barbeyrac also wrote with a similar view, dedicating his translation to George I. of England. But, unluckily, the expulsion of James II. which he calls an abdication, obliged him to be much on the reserve, to turn and wind about, as he saw occasion, in order not to make William III. an usurper. Had these two writers adopted true principles, all these difficulties would have vanished, and they would have written consistently; in such a case, however, they could only, in sober sadness, have told the truth, and would have paid their court only to the people. Now, to tell the truth, is not the way to make a fortune; nor are ambassadors appointed, or places and pensions given away by the populace.

C H A P. III.

Whether the general Will can be in the wrong.

IT follows, from what has been said, that the general Will is always in the right, and constantly tends to the public good; it does not follow, however, that the deliberations of the people will always be attended with the same rectitude. We are ever desirous of our own good, but we do not always distinguish in what it consists. A whole people never can be corrupted, but they may be often mistaken, and it is in such a case only that they appear to seek their own disadvantage.

There is often a considerable difference between the will of all the members and the general will of the whole body; the latter regards only the common interest, the other respects the private interest of individuals, and is the aggregated sum of their particular wills; but, if we take from this sum those contradictory wills that mutually destroy each other*, the sum of the remaining differences is the general will.

If

* *Each interest, says the Marquis d'A. has different principles. A coalition between two particular interests may be formed, out of opposition to that of a third. He might*

If a people, sufficiently informed of the nature of the subject under their consideration, should deliberate, without having any communication with each other, the general will would always result from the greater number of their little differences, and their deliberation would be such as it ought to be. But when they enter into cabals, and form partial associations, at the expence of the general one, the will of each of these associations becomes general, with regard to the particular members of each, and, in itself, particular, with regard to the state. In such a case, therefore, it may be said, there is no longer as many voters as individuals, but only as many voices as there are associations. The differences then become less numerous, and give a less general result. Again, should one of these partial associations be so great, as to influence all the rest, the result would no longer be the sum of many little differences, but that of one great one; in which case, a general will would no longer subsist.

might have added, that a coalition of all is formed out of opposition to the interest of each. Were there no different and clashing interests, that of the whole would be hardly distinguishable, as it would meet with no obstacle. All things would go regularly on of their own accord, and civil policy would cease to be an art.

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It is requisite, therefore, in order that each resolution may be dictated by the general will, that no such partial societies should be formed in a state, and that each citizen should think for himself*. Such was the sublime institution of the great Lycurgus. But, if such partial societies must and will exist, it is then expedient to multiply their number, and prevent their inequality, as was done by Solon, Numa, and Servius. These are the only salutary precautions that can be taken, in order that the general will may be properly informed, and the people not be mistaken as to their true interest.

C H A P. IV.

Of the limits of the sovereign power.

IF the state, or the city, be a mere moral person, whose life depends on the union of its members, and, if the most important of its concerns be that of its own preservation, it

* Vera cosa é, says Machiavel, che alcuni divisioni nuocono alle repubbliche, e alcune giovano: quelle nuocono che sono dalle sette e da partigiani accompagnate: quelle giovano che senza sette, senza partigiani si mantengono. Non potendo adunque provvedere un fondatore d'una repubblica che non siano nimizie in quella, hà da provveder almeno che non visiano sette. Hist. Fiorent. l. vii.

should

should certainly be possessed of an universal compulsive force, to move and dispose each part in such a manner as is most conducive to the good of all. As nature hath given every man an absolute power over his limbs, to move and direct them at pleasure, so the social compact gives to the body politic an absolute power over all its members, and it is this power which, directed by the general will, bears the name, as I have already observed, of the sovereignty.

But, besides this public person, we are to consider farther the private persons of which it is composed, and whose life and liberty are naturally independent of it. We come now, therefore, to make a proper distinction between the respective privileges of the citizens and the sovereign *, as well as between the obligations the former lie under as subjects, and the natural rights they claim as men.

It is agreed, that what an individual alienates of his power, his possession, or his liberty, by the social compact, is only such parts of them whose use is of importance to the community;

* Be not in haste, attentive reader, to accuse me here of contradiction. I cannot avoid the seeming contradiction in terms, from the native poverty of the language. But have a little patience.

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but it must be confessed also, that the sovereign is the only proper judge of this importance.

A citizen is bound to perform all the services he can possibly be of to a state; whenever the sovereign demands them; but the sovereign, on his part, cannot require any thing of the subject that is useless to the community; he cannot even be desirous of so doing; for, under the laws of reason, nothing can be produced without a cause, any more than under the law of nature.

The engagements, in which we are bound to the body of society, are obligatory, only because they are mutual; and their nature is such that we cannot, in discharging them, labour for the good of others, without, at the same time, labouring for that of ourselves. Wherefore, indeed, is it, that the general will is always in the right, and that all constantly desire the good of each, unless it be, because there is no one that does not appropriate the term *each* to himself, and who does not think of his own interest, in voting for that of all? This serves to prove also, that an equality of privilege, and the notion of justice it produces, are derived from that preference which each naturally gives himself, and of course from the very nature of man; that the

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general will, in order to be truly such, ought to be so in its effect, as well as in its essence; that it ought to flow from all, in order to be applicable to all; and that it must lose its natural rectitude, when it tends to any individual and determinate object; because judging, in such a case, of what is foreign to ourselves, we have no real principle of equity for our guide.

In fact, no sooner do we come to treat of a particular fact or privilege, on a point which has not been settled by a general and prior convention, than the affair becomes litigious. It is a process, in which the particulars interested are one party, and the public the other; but in which I see no law to decide, nor judge to determine. It would be absurd, therefore, in such a case, to think of referring it to any express decision of the general will, which could be no other than the decision of one of the very parties; and therefore must be, with regard to the other, foreign and partial, leaning to injustice, and subject to error. In the same manner, also, that a partial and particular will cannot represent the general will, so the latter, in its turn, changes its nature, when employed on a particular object, and cannot, in its general capacity, pronounce concerning any particular man or fact. Thus, when the people of Athens, for instance,

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took upon them to appoint or cashier their chiefs, to decree honours to one, and inflict pains and penalties on another, and thus, by numerous decrees, exercised indiscriminately all the acts of government, they had then, properly speaking, no general will at all: the Athenian people, in this case, did not act in the capacity of sovereign, but in that of magistrate. This may appear contradictory to the common notions of things, but I must be allowed time to explain mine.

We may learn hence, that the general will consists less in the number of votes, than in the common interest that unites them; for, in this institution, every one subjects himself necessarily to those conditions which he imposes on others: hence the admirable conformity between interest and justice, which stamps on public declarations that characteristic of equity, which we see vanish in the discussion of particular subjects, for want of that common interest which unites and makes the criterion of the judge the same with that of the party.

In what manner soever we recur to the first principle, we always arrive at the same conclusion, *viz.* that the social compact establishes such an equality among the citizens, that all lay themselves

themselves under the same obligations, and ought all to enjoy the same privileges. Thus, from the very nature of this compact, every act of sovereignty, that is to say, every authentic act of the general will, is equally obligatory on, or favourable to, all the citizens, without distinction; in so much that the sovereign knows only the whole body of the nation, but distinguishes none of the individuals who compose it. What then is properly an act of sovereignty? It is not an agreement made between a superior and an inferior, but a convention between a whole body with each of its members, which convention is a lawful one, because founded on the social contract; it is equitable, because it is common to all; it is useful, because it can have no other object than the general good; and it is solid and durable, because secured by the public strength and the supreme power.

When the submission of subjects is owing only to such conventions, they pay in fact obedience to none but their own will, and to ask how far the respective privileges of the sovereign and citizens extend, is to ask merely how far the latter may enter into engagements with themselves, *viz.* each individual with all collectively, and all collectively with each individual.

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Hence we see, that the sovereign power, absolute, inviolable, and sacred as it is, neither does nor can surpass the bounds of such general conventions, and that every man hath a right to dispose, as he pleases, of that liberty and property which the terms of such conventions have left to his own disposal; so that the sovereign hath not any right to lay a greater burthen on one subject than on another, because, in such a case, it becomes a particular affair, in which the sovereign hath no power to act.

These distinctions being once admitted, it is so far from being true, that there is any real renunciation on the part of individuals, when they enter into the social compact, that their situation becomes, by means of that very compact, much better than before; as, instead of making any alienation, they only make an advantageous exchange of an uncertain and precarious mode of subsistence, for a more settled and determinate one; they exchange their natural independence, for social liberty, the power of injuring others for that of securing themselves from injury; and their own natural strength, which might be overcome by that of others, for a civil power which the social union renders invincible. Their very lives, which they have by these means

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devoted to the state, are continually protected ; and even when they are obliged to expose themselves to death, in its defence, what do they more than render back to society what they have before received of it ? What do they more, in risking their lives for their country, than they would have been obliged to do more frequently, and with much greater danger in a state of nature ; when, subject to inevitable outrages, they would have been obliged to defend their means of subsistence at the hazard of their lives ? That every one lies under the obligation of fighting in defence of his country, is true ; but then he is relieved by the laws from the necessity of fighting to defend himself. And are not men gainers, on the whole, by running part of those risks, for their common security, which they must severally run for themselves, were they deprived of that security ?

CHAP. V.

On capital punishments.

IT hath been asked, how individuals, having no right to dispose of their own lives, can transmit that right to the sovereign ? The difficulty of resolving this question, arises only from

its being badly expressed. Every man hath an undoubted right to hazard his life for its preservation. Was a man ever charged with suicide, for throwing himself from the top of an house in flames, in order to avoid being burnt? Was it ever imputed as a crime to a man, who might be cast away at sea, that he knew the danger of the voyage when he embarked?

The end of the social compact, is the preservation of the contracting parties. Such, therefore, as would reap the benefit of the end, must assent to the means, which are inseparable from some dangers and losses. He that would preserve his life at the expence of others, ought to risk it for their safety when it is necessary. Now, the citizen is no longer a judge of the danger to which the law requires him to be exposed: but when the prince declares that the good of the state requires his life, he ought to resign it; since it is only on those conditions he hath hitherto lived in security, and his life is not solely the gift of nature, but a conditional gift of the state.

The punishment of death inflicted on malefactors may be considered also in the same point of view: it is to prevent our falling by the hands

hands of an assassin, that we consent to die, on becoming such ourselves. We are so far from giving away our lives, by this treaty, that we enter into it only for our preservation: as it is not to be presumed that any one of the contracting parties formed therein a premeditated design to get himself hanged.

Add to this, that every malefactor, by breaking the laws of his country, becomes a rebel and traitor; ceasing, from that time, to be a member of the community, and even declaring war against it. In this case, the preservation of the state is incompatible with his; one of the two must perish: and thus when a criminal is executed, he doth not suffer in the quality of a citizen, but in that of an enemy. His trial and sentence are the evidence and declaration of his having broken the social compact, and that, of consequence, he is no longer a member of the state. Now, as he had professed himself such, at least by his residence, it is right that he should be separated from the state, either by banishment as a violator of the social compact, or by death as a public enemy; for such an enemy is not a moral personage, he is a mere man, and it is in this case only that the right of war takes place of killing an enemy.

But, it may be said, the condemnation of a criminal is a particular act. It is so, and for that reason it does not belong to the sovereign: it is an act, for doing which the supreme power may confer the authority, though it cannot exercise such authority itself. My ideas on this subject are consistent, though I cannot explain them all at once.

It is to be observed, however, that the frequency of executions is always a sign of the weakness or indolence of government. There is no malefactor who might not be made good for something: Nor ought any person to be put to death, even by way of example, unless such as could not be preserved without endangering the community.

With regard to the prerogative of granting pardons to criminals, condemned by the laws of their country, and sentenced by the judges, it belongs only to that power which is superior both to the judges and the laws, viz. the sovereign authority. Not that it is very clear that even the supreme power is vested with such a right, or that the circumstances in which it might be exerted are frequent or determinate. In a well-governed state there are but few executions;

tions; not because there are many pardoned, but because there are few criminals: Whereas when a state is on the decline, the multiplicity of crimes occasions their impunity. Under the Roman republic, neither the Senate nor the Consuls ever attempted to grant pardons; even the people never did this, although they sometimes recalled their own sentence. The frequency of pardons indicates that in a short time crimes will not stand in need of them, and every one may see the consequence of such conduct. But my reluctant heart restrains my pen; let us leave the discussion of these questions to the just man who hath never been criminal, and who never stood in need of pardon.

C H A P. VI.

On the law.

HAVING given existence and life to the body politic, by a social compact, we come now to give it action and will, by a legislature. For the primitive act, by which such body is formed, determines nothing as yet with respect to the means of its preservation.

Whatever is right and conformable to order, is such from the nature of things, independent

of all human conventions. All justice comes from God, who is the fountain of it ; but could we receive it immediately from so sublime a source, we should stand in no need of government or laws. There is indeed an universal justice springing from reason alone ; but, in order to admit this to take place among mankind, it should be reciprocal. To consider things as they appear, we find the maxims of justice among mankind, to be vain and fruitless, for want of a natural support ; they tend only to the advantage of the wicked, and the disadvantage of the just, while the latter observes them in his behaviour to others, but no body regards them in their conduct to him. Laws and conventions, therefore, are necessary in order to unite duties with privileges, and confine justice to its proper objects. In a state of nature, where every thing is common, I owe nothing to those I have promised nothing ; I acknowledge nothing to be the property of another, but what is usefess to myself. In a state of society the case is different, where the rights of each are fixed by law.

We come at length, therefore, to consider what is law. So long as we content ourselves with the metaphysical idea annexed to this term, we must talk unintelligibly ; and though we should

should come to a definition of natural law, we should not know thence any thing more of political law. I have already said there can be no general will relative to a particular object. In fact every particular object must be within or without the state. If without, a will that is foreign, cannot with regard to it be general; and if the object be within the state, it must make a part of it: in which case there arises between the whole and the part, a relation that constitutes two separate beings, one of which is the part, and the whole wanting such part, is the other. But the whole wanting such part, is not the whole, and so long as that relation subsists, there is no whole, but only two unequal parts: whence it follows that the will of the one is no longer general with regard to that of the other.

But when a whole people decree concerning a whole people, they consider only their whole body; and, if it then forms any relation, it must be between the entire object considered in one point of view, and the entire object considered in another point of view, without any division of the whole. In this case, the matter of the decree is general as the will that decrees. Such is the act which I call a law.

When I say that the object of the laws is always general, I mean that the law considers the subjects in a collective body, and their actions abstractedly, but never concerns itself with individual persons, nor particular actions. Thus the law may decree certain privileges, but it cannot bestow them on particular persons: the law may constitute several classes of citizens, and assign even the qualities which may entitle them to rank in these classes; but it cannot nominate such or such persons to be admitted therein: It may establish a legal government, and appoint an hereditary succession, but it cannot make choice of a king, nor appoint the royal family; in a word, every function that relates to an individual object, doth not belong to the legislative power.

Taking things in this light, it is immediately seen how absurd it is to ask in whose power it is to make laws? as they are acts of the general will; or whether the prince be above the laws? as he is but a member of the state. Hence also, it is plain, the law cannot be unjust, as nothing can be unjust to itself; as also what it is to be free, and at the same time subject to the laws, as the laws are only the records of our own will.

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It is hence farther evident, the law re-uniting the universality of the will to that of its object that whatever an individual, of what rank soever, may decree of his own head, cannot be a law: indeed, whatever the supreme power itself may ordain concerning a particular object is not a law, but a simple decree; it is not an act of the sovereignty, but of the magistracy.

I call every state, therefore, which is governed by laws, a Republic, whatever be the form of its administration; for in such a case only, it is the public interest that governs, and whatever is public is something. Thus every lawful government is republican *. I shall explain hereafter what I mean by a government.

The laws are, strictly speaking, only the conditions of civil society. The people who sub-

* I do not here mean, by the term republican, either an aristocracy or democracy; but in general every government influenced by the general will of the people, which is the law. To make a government legal, it is not necessary that it should be confounded with the sovereign, but that it should be the minister: so that in this sense even a monarchy is a republic. This will be more fully explained in the subsequent book.

mit to them should therefore be the authors of them ; as it certainly belongs to the associating parties, to settle the conditions on which they agree to form a society. But how are they to be settled ? is it to be done by common consent or by a sudden inspiration ? hath the body politic an organ by which to make known its will ? who shall furnish it with the necessary prescience to form its determinations, and to publish them before-hand, or how shall it divulge them in the time of need ? how shall an ignorant multitude, who often know not what they chuse, because they seldom know what is for their good, execute an enterprize so great and so difficult as that of a system of legislature ? A people must necessarily be desirous of their own good, but they do not always see in what it consists. The general will is always in the right, but the judgment by which it is directed is not always sufficiently informed. It is necessary it should see objects such as they are, and sometimes such as they ought to appear ; it should be directed to the salutary end it would pursue, should be secured from the seduction of private interests, should have an insight into the circumstances of time and place ; and should be enabled to set the present and perceptible advantages of things, against the distant and concealed evil that

that may attend them. Individuals often see the good which they reject; the public is desirous of that which it is incapable to see. Both stand equally in need of a guide: the former should be compelled to conform their desires to reason, and the latter should be instructed in the discovery of what it desires. It is thus from the proper information of the public, that there results an union of the understanding and the will in the body of society, and thence the exact concurrence of its parts, and in the end the greatest force of the whole. Hence arises the necessity of a legislator.

C H A P. VII.

Of the genius and character of a legislator.

TO investigate those conditions of society which may best answer the purposes of nations, would require the abilities of some superior intelligence, who should be witness to all the passions of men, but be subject itself to none; who should have no connection with human nature, but should have a perfect knowledge of it; a being, in short, whose happiness should be independent of us, and who would

would nevertheless employ itself about ours*. It is the province of Gods indeed to make laws for men.

The same argument which Caligula made use of, in point of fact, Plato himself employs, in point of right, when he goes about to define the civil or royal personage, in treating of a king. But if it be certain that a great prince is a personage rarely to be met with, what is that of a great legislator? The former hath nothing more to do than to follow the model designed by the latter. The one is the mechanical genius who invents the machine, the other only the workman who puts it into execution. In the commencement of societies, says Montesquieu, it is the principal persons in republics which form their institution; and afterwards it is the institution which forms the chiefs of republics.

He who should undertake to form a body politic, ought to perceive himself capable of working a total change in human nature; of transforming every individual, of himself a solitary

* Nations become famous only as their legislature declines. The institution of Lycurgus made the Spartan happy for ages before they were famous in Greece.

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and independent being, into a part of a greater whole, from which such individual is to receive in one sense his life and existence; he must be capable of altering the constitution of the man, in order to strengthen it; and to substitute a partial and moral existence in the room of that physical and independent existence which we receive from the hands of Nature. In a word, he must be able to deprive man of his natural abilities, in order to invest him with foreign powers which he cannot make use of without the assistance of others. The more such natural force is annihilated and extinct, the greater and more durable are those which are acquired, and the more perfect and solid is the social institution. So that if each citizen be nothing, and can effect nothing but by the existence and assistance of all the rest, and that the force acquired by the whole body be equal, or superior, to the sum of the natural forces of all its individuals, the legislature may be said to have reached the highest pitch of perfection it is capable to attain.

The legislator is in every respect a most extraordinary person in a state. If he be undoubtedly so, on account of his genius, he is not less so from his function. Yet this is not that of the
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magistrate or the sovereign. That function, which constitutes the republic, doth not enter into its constitution. It is, on the contrary, a particular and superior employment that hath nothing in common with human government: for if he who hath the command over the citizens, should not be entrusted with the command over the laws, he who hath the power over the laws, ought as little to have the power over the citizens: for were it otherwise, his laws, being made instrumental to his passions, would often serve to perpetuate his injustice, and he could never prevent particular views from altering his system.

When Lycurgus gave laws to his country, he began by abdicating the throne. It was the custom of most of the Grecian cities to entrust their establishment with strangers; a custom that hath been often imitated by the modern republics of Italy: that of Geneva did the same, and found its account in it*. In the most

* Those who consider Calvin only as a theologist, know but little of his comprehensive genius. The digest of our laws, in which he had a considerable share, do him as much honour as his religious system; and what revolution soever time may effect in our public worship, the memory of this great man will continue to be revered so long as patriotism and a sense of liberty survive among us.

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flourishing age of Rome, that city suffered under flagitious acts of tyranny, and beheld itself on the brink of ruin, for having entrusted the sovereign power and the legislative authority in the same hands.

Even the decemviri themselves, however, never assumed the right of passing any law merely on their own authority. *Nothing that we propose*, said they to the people, *can pass into a law without your consent. Be yourselves, ye Romans, the authors of those laws on which your happiness depends.*

The legislator, therefore, who digests the laws, should have no right to make them pass for such; nor indeed can the people, though inclined to do it, deprive themselves of that incommunicable right: because, according to the fundamental compact, it is the general will only that is obligatory on individuals, and it is impossible to be assured that any particular will is conformable to the general, till it be submitted to on the free suffrage of the people. I have said this before, but perhaps have not unnecessarily repeated it.

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Thus in the business of a legislature, we find two things apparently incompatible; a design superior to human abilities, carried into execution by an authority which is nothing.

Another difficulty which merits attention is, that wise men, in talking their own language to the vulgar, speak unintelligibly. And yet there are many kinds of ideas which it is impossible to convey in the language of the people. Views too general, and objects too distant, are equally beyond their comprehension; the individual, relishing no other plan of government than that which is conducive to his private interest, is with difficulty brought to see those advantages which are to be deduced from the continual checks he may receive from salutary laws. In order to give a newly-formed people a taste for the sound maxims of policy, and induce them to follow the fundamental rules of society, it is necessary that the effect should in a manner become the cause; that the spirit of union which should be the effect of social institutions should preside to form that institution itself, and that men should be such before the laws are made as the laws are designed to make them. For this reason therefore, the legislator being capable of employing neither force nor argument,

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he is of necessity obliged to recur to an authority of an higher order, which may compel without violence, and persuade without conviction. Hence it is that the founders of nations have been obliged, in all ages, to recur to the intervention of celestial powers, and have honoured their gods with their own wisdom, in order that the people, by submitting themselves to the laws of the state in the same manner as to those of nature, and acknowledging the same power in the formation of the city as in the formation of man, might bend more freely, and bear more tractably the yoke of obedience and public felicity.

Now the determinations of that sublime reason, which soars above the comprehension of vulgar minds, are those which the legislator puts into the mouths of his immortal personages, in order to influence those by a divine authority, which could not be led by maxims of human prudence. It does not belong to every man, however, to make the gods his oracles, nor even to be believed when he pretends to be their interpreter. The comprehensive genius of the legislator, is the miracle that proves the truth of his mission. Any man may engrave tables of stone, hire an oracle, pretend to a secret communication.

munication with some deity, teach a bird to whisper in his ear, or hit upon other devices to impose on a people. But he who knows nothing more, though he may be lucky enough to get together an assembly of fools and madmen, will never lay the foundations of an Empire; the fabrick raised by his extravagance presently falling and often burying him in its ruins. A transitory union may be formed from slight and futile connections; nothing but the dictates of wisdom, however, can render it durable. The Jewish law, still subsisting, and that of the son of Ismael, which for ten centuries hath governed half the world, are standing proofs of the superior genius of those great men by whom they were dictated: and though the vanity of philosophy, and the blind prejudice of party see nothing in their characters but fortunate impostors, the true politician admires, in their respective institutions, that sagacious and comprehensive power of mind which must ever lay the lasting foundation of human establishments.

It must not, from all this, be concluded, however, that religion and government have, in our times, as Warburton alleges, one common object; but only that in the first establishment of societies, the one was made instrumental to the other.

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C H A P. VIII.

Of the people.

AS the architect, before he begins to raise an edifice, examines into the ground where he is to lay the foundation, that he may be able to judge whether it will bear the weight of the superstructure; so the prudent legislator does not begin by making a digest of salutary laws, but examines first whether the people for whom such laws are designed, are capable of supporting them. It was for this reason Plato refused to give laws to the Arcadians and Cyrenians, knowing they were rich and luxurious, and could not admit of the introduction of equality among them. It was for this reason that Crete, though it boasted good laws, was inhabited by such bad men; Minos had only endeavoured to govern a people already depraved by vice. Various have been the nations that have made a distinguished figure in the world, and yet have not been capable of being governed by good laws; and even those who were capable of being so governed, continued so but a short time. Nations, as well as individuals, are docile only in their infancy: they
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become incorrigible as they grow old. When customs are once established and prejudices have taken root among them, it is a dangerous and fruitless enterprize to attempt to reform them. A people cannot even bear to have their wounds probed, though in order to be cured; but resemble those weak and cowardly patients who shudder at the sight of their physician. Not, but that sometimes, as there are distempers which affect the brain of individuals and deprive them of the capacity of remembering what is past, there happen in states such revolutions as produce the same effect on a people, when the horror of the past supplies the place of oblivion, and the state, inflamed and exhausted by civil wars, rises again, if I may so express myself, out of its own ashes, and re-assumes the vigour of youth in forsaking the arms of death. This was the case with Sparta in the time of Lycurgus, and of Rome after the Tarquins; and such hath been the case in modern times with Holland and Switzerland after the expulsion of their tyrants. But these events are rare; and are such exceptions as have their cause in the particular constitution of the state excepted. They cannot even take place twice among the same people: for though they may be made free when they are only barbarous and

uncivilized; yet, when the resources of society are exhausted, they cannot be renewed. In that case, faction may destroy, but revolutions cannot re-establish their freedom; they require for ever after a master, and not a deliverer. Every free people, therefore, should remember this maxim, that tho' nations may acquire liberty, yet if once this inestimable acquisition is lost, it is absolutely irrecoverable.

There is in nations, as well as individuals, a term of maturity, at which they should be permitted to arrive before they are subjected to laws. This term, however, is not always easy to be known; and yet if it be anticipated it may be of dangerous consequence. Again, one people may be formed to discipline in their infancy; while another may not be ripened for subjection till after many centuries. The Russians, for instance, will never be truly polished because they were disciplined too soon. Peter had only an imitative turn; he had nothing of that true genius, whose creative power forms things out of nothing. Some of his measures, indeed, were proper enough, but most of them were ill-timed or ill-placed. He saw that his subjects were mere barbarians, but he did not

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see that they were not ripe for being made polite. He wanted to civilize them, when he should only have checked their brutality. He wanted to make them, at once, Germans and Englishmen, whereas he ought to have begun by making them first Russians; and thus he prevented his subjects from ever becoming what otherwise they might have been, by persuading them they were such as they were not. It is thus a French tutor forms his pupil to make a figure in his child-hood, and to make none for ever afterwards. The Empire of Russia, while it is ambitious of reducing all Europe to its subjection, will be subjected itself. Its neighbours, the Tartars, will in time become both its masters and ours. This event seems to me inevitable; all the monarchs in Europe seeming to act, in concert, to accelerate such a revolution.

CHAP. IX.

The subject continued.

IN the same manner as nature hath limited the dimensions of a well-formed human body, beyond which she produces only giants or dwarfs, so in the body politic there are limits,

limits, within or beyond which a state ought not to be confined or extended; to the end that it may not be too big to be well governed, nor too little to maintain its own independency. There is in every body politic a *maximum* of force which it cannot exceed, and from which it often recedes by extending its dominion. The more the social knot is extended, the more lax it grows; and in general, a little state is always proportionably stronger than a great one.

A thousand reasons might be given in support of this maxim. In the first place, the administration of government becomes always more difficult as the distance from the seat of it increases, even as a body has the greatest weight at the end of the longest lever. It becomes also more burthensome in proportion as it is divided into parts; for every town hath first its own particular government to pay; that of each district again is paid by the same people; next that of the province, then that of particular governments with their viceroys, all of whom are to be paid as they rise in dignity, and always at the expence of the unhappy people; whom, last of all, the supreme administration itself crushes with the whole weight of its oppression. It is impossible so many

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needless charges should not tend continually to impoverish the people; who, so far from being better governed by these different ranks of superiors, are much worse so, than if they had but one order of governors in the state. And yet with this multiplicity of rulers, they are far from being furnished with proper resources for extraordinary occasions; but, on the contrary, when they have occasion to recur to them, the state is always on the brink of ruin.

Nor is this all; the government not only becomes less vigorous and active in putting the laws in execution, removing private oppression, correcting abuses, or preventing the seditious enterprizes of rebellion in distant provinces; but the people have less affection for their chiefs, whom they never have an opportunity to see; for their country, which to them is like the whole world; and for their fellow-subjects, of which the greater part are utter strangers. The same laws cannot be convenient for so many various people of different manners, and climates, and who cannot be supposed to live equally happy under the same form of government. And yet different laws must occasion
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much trouble and confusion among people, who, living under the same administration, and carrying on a perpetual intercourse, frequently change their habitations, inter-marry with each other, and, being educated under different customs, hardly ever know when their property is secure. Great talents lie buried, virtue lives obscured, and vice prevails with impunity, amidst that multitude of strangers, which flock together round the chief seat of administration. The principals, overwhelmed with a multiplicity of business, can look into nothing themselves; the government of the state being left to their deputies and clerks. In a word, the measures to be taken, in order to maintain the general authority, on which so many distant officers are ever ready to encroach or impose, engross the public attention; there is none of it left to be employed about the happiness of the people, and indeed hardly any for their defence in case of need: thus it is, that a body too unwieldy for its constitution grows debilitated and sinks under its own weight.

On the other hand, a state ought to be fixed on some basis, to secure its solidity, to be able to resist those shocks which it will not fail to encounter, and to make those efforts which it

will find necessary to maintain its independence. Nations have all a kind of centrifugal force by which they act continually against each other, and tend, like the vortices of Descartes, to aggrandize themselves at the expence of their neighbours. Thus the weak run in danger of being presently swallowed up by the strong; nor is there any security for them, but by keeping themselves in equilibrio with the rest, and making the compression on every side equal.

Hence we see it is prudent in some cases to extend, and in others to restrain, the limits of a state; nor is it one of the least arts in civil polity to distinguish between one and the other, and to fix on that advantageous proportion which tends most to the preservation of the state. It may be observed in general, that the reasons for extending dominion, relating to objects external and relative, ought to be subordinate to those for contracting it, whose objects are internal and absolute. A sound and vigorous constitution is the first thing to be considered, and a much greater reliance is to be made on a good government, than on the resources which are to be drawn from an extensive territory.

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Not but that there have been instances of states so constituted, that the necessity of their making conquests hath been essential to their very constitution. It is possible also they might felicitate themselves on that happy necessity, which pointed out, nevertheless, with the summit of their grandeur, the inevitable moment of their fall.

C H A P. X.

The subject continued.

THE magnitude of a body politic may be taken two ways; viz. by the extent of territory, and the number of the people; a certain proportional relation between them constituting the real greatness of a state. It is the people which form the state, and the territory which affords subsistence to the people; this relation, therefore, exists when the territory is sufficient for the subsistence of the inhabitants, and the inhabitants are as numerous as the territory can maintain. In this proportion consists the *maximum* of the force of any given number of people; for if the territory be too extensive, the defence of it is burthensome, the cultivation insufficient, and the produce superfluous;

fluous; hence the proximate causes of defensive war. If, on the other hand, the territory be too small, the state is under the necessity of being obliged for part of its subsistence to its neighbours; hence the proximate causes of offensive war. Every people who, by their situation, have no other alternative than commerce or war, must be necessarily feeble: they must depend on their neighbours, on adventitious circumstances, and can only have a short and uncertain existence. They must conquer others, and thereby change their situation, or be conquered themselves, and thence be reduced to nothing. It is impossible such a state can preserve its independency but by its insignificancy or its greatness.

It is not easy to calculate the determinate relation between the extent of territory and number of inhabitants, sufficient for each other; not only on account of the difference in the qualities of the soil, in its degrees of fertility, in the nature of its productions, and in the influence of climate, but also on account of the remarkable difference in the temperament and constitution of the inhabitants; some consuming but little in a fertile country, and others a great deal on a barren soil. Regard must also be had to the

the degree of fecundity among the females, to the circumstances favourable or destructive to population, and to the number of people which the legislator may hope to draw from other countries by the advantages attending his scheme of government; so that he ought not to found his judgment on what actually exists; but on what he foresees may exist hereafter; not on the present state of population, but on that which will naturally succeed. In fine, there are a thousand occasions, on which local accidents acquire, or permit, a state to possess a larger share of territory than may appear actually necessary for present use. Thus a people may spread themselves over a large spot in a mountainous country, whose natural produce, of wood or pasture, requires less labour of cultivation; where experience teaches us that women are more fruitful than in the flat countries; and in which a large inclined superficies gives but a small horizontal base, by which only the land must be estimated in the affair of vegetation. A people, on the contrary, may inhabit a less space on the sea-shore, or even among rocks and almost barren sands; because the fishery supplies them with sustenance, instead of the produce of the earth; they can easily disburthen their community by sending

out colonies of its supernumerary inhabitants; and lastly, because it is necessary for them in such a case to live near to each other, in order to repel the invasions of pyrates.

We may add to these conditional precautions, respecting the formation of a people, one that can be supplied by no other, but without which all the rest are useless: this is, that they should enjoy peace and plenty. For the time in which a state is forming, resembles that in which soldiers are forming a battalion; it is the moment in which they are least capable of resistance, and the most easily defeated. They would even make a greater resistance when put into absolute disorder afterwards, than during the interval of their first fermentation, when each is taken up more about his own particular rank than the common danger. Should a war, a famine, or a rebellion, break out at such a crisis, the state would be infallibly subverted.

Not but there have been many governments established in times of disorder and confusion: in such cases, however, those very governments subverted the state. Usurpers have always given rise to, or took the advantage of, those times of general confusion, in order

der to procure such destructive laws, which the people never could have been prevailed on to pass at a more dispassionate season. The choice of the proper time for the institution of laws, is one of the most certain tokens by which we may distinguish the design of a legislator from that of a tyrant.

If it be asked then, what people are in a situation to receive a system of laws? I answer, those who, though connected by some primitive union either of interest or compact, are not yet truly subjected to regular laws; those whose customs and prejudices are not deeply rooted; those who are under no fear of being swallowed up by a sudden invasion, and who, without entering into the quarrels of their neighbours, are able to encounter separately with each, or to engage the assistance of one to repel the other; a people whose individuals may be known to each other, and among whom it is not necessary to charge a man with a greater burthen than it is possible for him to bear; a people who can subsist without others, and without whom all others might subsist *; a people neither

* If two neighbouring people were so situated that one could not subsist without the other, the circum-

ther rich nor poor, but possessed of a competence within themselves; a people, in short, who possess at once the consistency of an ancient nation, and the docility of a newly-created one. The great difficulty in legislation, consists less in knowing what ought to be established than what ought to be eradicated; and what renders it so seldom successful, is the impossibility of finding the simplicity of nature in the wants of society. It is true that all these circumstances are very rarely united; and it is for this reason that so few states have much to boast of, in their constitution. There is still one country in Europe capable of receiving laws: this is the island of Corsica. The valour and constancy, with which those brave people recovered, and have defended their liber-

stances of the first would be very hard, and of the latter very dangerous. Every wise nation, in such a case, would extricate itself as soon as possible from such a state of dependence. The republic of Thlascala, situated in the heart of the Mexican empire, chose rather to be without salt than purchase it, or even receive it gratis of the Mexicans. The prudent Thlascalans saw through the snare of such liberality. Thus they preserved their liberty; this petty state, included within that great empire, being, in the end, the cause of its ruin.

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ty, might deservedly excite some wise man to teach them how to preserve it. I cannot help surmising, that this little island will, one day or other, be the astonishment of Europe.

CHAP. XI.

Of the various systems of legislature.

IF we were to enquire, in what consists precisely the greatest good, or what ought to be the end of every system of legislature; we should find it reducible to two principal objects, *liberty* and *equality*; liberty, because all partial dependence deprives the whole body of the state of so much strength; equality, because liberty cannot subsist without it.

I have already explained the nature of social liberty; and with regard to equality, we are not to understand by that term, that individuals should all absolutely possess the same degree of wealth and power; but only that, with respect to the latter, it should never be exercised contrary to good order and the laws; and with respect to the former, that no one citizen should be rich enough to buy another, and that none should be so poor as to be obliged to sell him-

self*. This supposes a moderation of possessions and credit on the side of the great, and the moderation of desires and covetousness on the part of the little.

This equality, they tell us, is a mere speculative chimera, which cannot exist in practice: but though abuses are inevitable, does it thence follow they are not to be corrected? It is for the very reason that things always tend to destroy this equality, that the laws should be calculated to preserve it.

These general objects of legislature, however, should be variously modified in different countries, agreeable to local situation, the character of the inhabitants, and those other circumstances which require that every people should have a particular system of laws, not always the best in itself, but the best adapted to

* Would you give a state consistency and strength, prevent the two extremes as much as possible; let there be no rich persons nor beggars. These two conditions, naturally inseparable, are equally destructive to the commonwealth: the one furnishes tyrants, and the other the supporters of tyranny. It is by these the traffic of public liberty is carried on; the one buying, the other selling it.

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that state for which it is calculated. If, for example, the soil be ungrateful and barren, or the country too small for its inhabitants, cherish industry and the arts, the productions of which may be exchanged for the commodities required. On the other hand, if your country abounds in fertile hills and plenteous vales; if you live on a rich soil in want of inhabitants; apply yourselves to agriculture, which affords the means of population; and banish the destructive arts which serve only to ruin a country, by gathering the few inhabitants of it, together in one particular spot or two, to the depopulation of all the rest *. Do you occupy an extensive and commodious situation by the sea side? Cover the ocean with your ships, cultivate the arts of navigation and commerce: you will by these means enjoy a brilliant but short existence. On the contrary, do the waves only waste their strength against your inaccessible rocks? Remain barbarous and illiterate; you will live but the more at ease, perhaps more virtuous, as-

* The advantage of foreign commerce, says the Marquis d'A. is productive only of a delusive utility to the kingdom in general. It may enrich a few individuals, and perhaps some cities; but the whole nation gains nothing by it, nor are the people the better for it.

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furedly more happy. In a word, besides the maxims common to all nations, every people are possessed in themselves of some cause which influences them in a particular manner, and renders their own system of laws proper only for themselves. It is thus that in ancient times, among the Hebrews, and in modern times, among the Arabians, religion was made the principal object of national concern; among the Athenians this object was literature; at Carthage and Tyre it was commerce, at Rhodes it was navigation, at Sparta war, and at Rome public virtue. The author of the *Spirit of laws* hath shewn, by a number of examples, in what manner the legislator should model his system agreeable to each of these objects.

What renders the constitution of a state truly solid and durable, is that agreement maintained therein between natural and social relations, which occasions the legislature always to act in concert with nature, while the laws serve only to confirm and rectify, as it were, the dictates of the former. But if the legislator, deceived in his object, should assume a principle different from that which arises from the nature of things; should the one tend to slavery and the other to liberty, one to riches, the other to population,

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one to peace the other to war and conquests, the laws would insensibly lose their force, the constitution would alter, and the state continue to be agitated till it should be totally changed or destroyed, and nature have resumed its empire.

C H A P. XII.

On the division of the laws.

IN order to provide for the government of the whole, or give the best possible form to the constitution, various circumstances are to be taken into consideration. Of these the first is the action of the whole body operating on itself; that is the relation of the whole to the whole, or of the sovereign to the state, which relation is composed of those between the intermediate terms; as will be seen hereafter.

The laws which govern this relation bear the name of politic laws, and are also called fundamental laws, not without some reason when they are wisely ordained. For if there be only one good method of government in a state, the people, who have been so happy as to hit on that method, ought to abide by it: but, wherefore

A T R E A T I S E O N T H E

should a people, whose laws are bad or defective, esteem such laws to be fundamental? Besides, a nation is in any case at liberty to change even the best laws, when it pleases: for if a people have a mind even to do themselves an injury, who hath any right to prevent them?

The second circumstance is the relations which the members of the community bear to each other and to the whole body, the first of which should be as little, and the last as great, as possible: so that every citizen should live in a state of perfect independence on all the rest, and in a state of the greatest dependence on the city. Both these are ever effected by the same means: for it is the power of the state only that constitutes the liberty of its members. On this second kind of relation is laid the immediate foundation of the civil laws.

It may be proper to consider also a third species of relation between the individual and the law; which gives immediate rise to penal statutes: these, however, are in fact less a distinct species of laws than the sanction of all the others.

To

To these three kinds of laws, may be added a fourth, more important than all the rest ; and which are neither engraven on brass or marble ; but in the hearts of the citizens ; forming the real constitution of the state. These are the laws which acquire daily fresh influence, and when others grow old and obsolete, invigorate and revive them : these are the laws which keep alive in the hearts of the people, the original spirit of their institution, and substitute insensibly the force of habit to that of authority. The laws I here speak of, are manners, customs, and above all public opinion ; all unknown or disregarded by our modern politicians, but on which depends the success of all the rest. These are the objects on which the real legislator is employed in secret, while he appears solely to confine himself to those particular regulations which compose only the preparatory centre of the vault, of which manners, more slow in their progress, form in the end the immoveable arch.

Of these classes, politic laws, or those which constitute the form of government, are relative only to my present subject.

The END of the SECOND BOOK.

BOOK

B O O K III.

BEFORE we enter on a discussion of the several forms of government, it will not be improper to ascertain the precise meaning of that term; which as yet hath not been well explained.

CHAP. I.

On government in general.

IMUST previously caution the reader to peruse this chapter very deliberately, as it is impossible to render myself clearly intelligible to such as are not attentive.

Every free action hath two causes, which concur to effect its production, the one moral, viz. the will which determines the act; the other physical, viz. the power which puts it in execution. When I walk, for instance, toward any particular object, it is first necessary that I should will to go; and secondly that my feet should bear me forward. A paralytic may will to run, and an active racer be unwilling; the want of power in the one hath the same effect

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as the want of will in the other; both remain in their place. The body politic hath the same principles of motion; which are distinguished also in the same manner by power and will: the latter under the name of the *legislative* power, and the former under that of the *executive* power. Nothing is or ought to be done without the concurrence of both.

We have already seen that the legislative power belongs to the people in general, and can belong to none else. On the other hand, it is easy to conclude, from the principles already established, that the executive power cannot appertain to the generality, as legislator or sovereign; because this power is exerted only in particular acts which are not the province of the law, nor of course that of the sovereign, whose acts can be no other than laws.

To the public force, therefore, should be annexed a proper agent, which may re-unite and put it in action, agreeable to the directions of the general will; serving as a communication between the state and the sovereign, and effecting the same purpose in the body politic, as the union of the soul and body in man. Such is the rationale of government, so generally confounded

founded with the sovereign, of which it is only the ministry.

What then is government? It is an intermediate body established between the subject and the sovereign, for their mutual correspondence; charged with the execution of the laws, and with the maintenance of civil and political liberty.

The members of which this body is composed, are called magistrates or *kings*, that is to say, *governors*, and the whole body bears the name of the *prince* *. Those, therefore, who affirm that the act, by which a people professes submission to their chiefs or governors, is not a contract, are certainly right; it being in fact nothing more than the conferring a simple commission on the said chiefs; an employ, in the discharge of which they act as mere officers of the sovereign, exercising in its name the power which it hath placed in their hands, and which it may limit, modify or resume whenever it pleases; the alienation of its right so to do, being incompatible with the very nature and being of society.

* Thus at Venice the college of senators is called the most serene *prince*, even when the doge is not present.

I call

I call therefore, the legal exercise of the executive power, the *Government* or supreme administration; and the individual or body, charged with that administration, the prince or the magistrate.

In the government are to be found those intermediate forces, whose relations compose that of the whole to the whole, or of the sovereign to the state. This last relation may be represented by that of the extremes of a constant proportion, the mean proportional of which is the government. The government receives from the sovereign those orders, which it gives to the people; so that, in order to keep the state in due equilibrio, there should, every thing considered, be the same equality between the momentum or force of the government taken in itself, and the momentum or force of the citizens, who are the sovereign considered collectively on one side, and subjects considered severally on the other.

It is, besides, impossible to vary any of these three terms, without instantly destroying the proportions. If the sovereign should be desirous to govern, or the magistrate to give laws, or the subjects refuse to obey; disorder must immediately

mediately take place; the will and the power thus no longer acting in concert, the state would be dissolved, and fall into despotism or anarchy. Add to this, that as there can be but one mean proportional between each relation, there can be but one good government for a state. But as a thousand events may change the relations subsisting among a people; different governments may not only be good for different people, but even for the same people at different periods of time.

In order to give the reader an idea of the various relations that may exist between these two extremes, I shall, by way of example, make use of the number of people, as a relation the most easily expressed.

We will suppose, for instance, that a state is composed of ten thousand citizens. The sovereign must be considered as collectively only and in a body: but every particular in quality of subject is considered as an individual: thus the sovereign is in this case to the subject as ten thousand to one: That is to say, every member of the state shares only the ten thousandth part of the sovereign authority, while at the same time he is subjected to it in his whole person. Again, should the number of people be increased

to an hundred thousand, the submission of the subjects would receive no alteration; each of them being totally subjected to the authority of the laws, while his share in the sovereignty, and vote in the enactment of these laws, would be reduced to the hundred-thousandth part; a tenth less than before. Thus the subject, remaining always a single integer, the proportion between him and the sovereign increases as the number of citizens is augmented: whence it follows, that as a state increases, the liberty of the subject diminishes.

When I say the proportion increases, I mean that it recedes farther from the point of equality. Thus the greater the proportion, in the language of the geometricians, it is reckoned the less according to common acceptation: agreeable to the former, the relation, considered in point of quantity, is estimated by its extent; and according to the latter, considered in point of identity, it is estimated by its proximation.

Now, the less proportion which particular voices bear to the general, that is to say, the manners to the laws, the more ought the general restrictive force to be augmented. Thus the government should be relatively more powerful as the people are more numerous.

On

On the other hand, the increasing greatness of a state affording the guardians of the public authority greater temptations and means to abuse their power, the more force a government is possessed of to restrain the people, the more ought the sovereign to be possessed of in its turn to restrain the government. I am not speaking here of absolute power, but of the relative forces of the component parts of the state.

It follows, from this two-fold relation, that the constant proportion between the sovereign, the prince, and the people, is not a mere arbitrary idea, but a necessary consequence of the very existence of the body politic. It follows also, that, one of the extremes, *viz.* the people as subjects, being a fixed term represented by unity, wherever the two-fold ratio is increased or diminished, that the simple ratio must increase or diminish in like manner, and of course the mean term will be changed. Hence it appears there is no one settled constitution of government, but that there may be as many governments different in their nature as there are states differing in magnitude.

If

If any one should affect to turn my system into ridicule, and say that, in order to find this mean proportional, and form the government as it ought to be, we have no more to do than to find the square root of the number of the people; I answer that I here make use of the number of people only by way of example; that the relations of which I have been speaking, are not only estimated by the number of individuals, but in general by the momentum or quantity of action, which arises from a combination of various causes; and though, in order to express myself concisely, I borrow the terms of geometry, I am not ignorant that geometrical precision is not to be expected in treating of moral quantities.

The government is in miniature what the body politic containing it, is at large. It is a moral person endued with certain faculties, active as the sovereign, passive as the state, and capable of being resolved into other sensible relations, from which of course arises a new scale of proportion, and still another within this, according to the order of the courts of justice, till we arrive at the last indivisible term, that is to say, the sole chief or supreme magistrate, which may be represented in the centre

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of

of this progression, as an unity between the series of fractions, and that of whole numbers.

But, without embarrassing the reader with a multiplicity of terms, we shall content ourselves with considering the government as a new body in the state, distinct from the subjects and the sovereign, and existing between both.

There is this essential difference, however, between the government and the state, that the latter exists of itself, and the former only by means of the sovereign. Thus as the ruling will of the prince is, or ought to be, only the general will, or the law, the power of the prince is only that of the public centered in him; so that whenever he would derive from himself any absolute and independent act, the combination of the whole is affected. And if, at length, the prince should have a particular will of his own, more active than that of the sovereign, and should make use of the public power in his hands to enforce obedience to such particular will, forming, as it were, two sovereigns, the one of right and the other of fact, the social union immediately vanishes, and the body politic is dissolved.

In order that the body of government, nevertheless, may have an existence, a real life to distinguish it from that of the state, and that its members may act in concert to answer the end for which it is instituted, it is necessary that it should be possessed of a particular identity, a sensibility common to all its members, a power and will of its own for the sake of its preservation. Such a particular existence necessarily supposes that of assemblies and councils; of a power to deliberate and resolve; of the rights, titles and privileges which belong exclusively to the prince, and render the situation of a magistrate the more honourable in proportion as it is more laborious. The difficulty lies in the method of disposing all the inferior parts of the whole body; so that, while it is strengthening its own constitution, it may not injure that of the state. At the same time also, it should always distinguish between the peculiar force, destined to its own preservation, and the public force destined to the preservation of the state; in a word, it should be always ready to sacrifice the government to the people, and not the people to the government.

To this we may add, that, although the artificial body of government be the work of another

other artificial body, and is possessed only of a borrowed and subordinate existence; this doth not prevent it from acting with different degrees of vigour and celerity, or from enjoying, if I may so express myself, a greater or less share of health and strength. In short, it may, without running diametrically opposite to the purposes of its institution, deviate from them more or less, according to the mode in which it is constituted.

It is from all these differences that arise those various relations and proportions, which the government ought to bear toward the state, according to these accidental and particular relations in which the state is modified. For the best government in itself may often become the worst, if the relation of its component parts are not altered according to the defects of the body politic to which it belongs.

C H A P.

C H A P. II.

On the principle which constitutes the different forms of government.

TO explain the general cause of these differences, it is necessary to distinguish here between the prince and the government, in the same manner as I have already done between the sovereign and the state. The body of the magistracy may be composed of a greater or a less number of members. It hath been observed also that the relation the sovereign bears to the subject increases in proportion to the number of people; thus, by an evident analogy, we may say the same of the relation between the government and the magistrates.

Now the total force of the government, being always equal to that of the state, suffers no alteration; whence it follows that the more such force is spent by the distribution of it among the members of the government, the less remains to be exerted on the whole body of people.

That government, therefore, which is in the hands of the greatest number of magistrates must be the most feeble. As this is a fundamental maxim, we shall take some pains to illustrate it.

In the person of the magistrate may be distinguished three wills essentially different. In the first place the particular will of the individual, which tends only to his private advantage; secondly, that will which is common to him as a magistrate, tending solely to the advantage of the prince; being general with respect to the government, and particular with regard to the state, of which the government is only a part; and in the third place, the will of the people or the sovereign will, which is general as well with regard to the state considered as a whole, as with regard to the government considered as a part of that whole.

In a compleat system of legislature, the particular will or that of the individual should amount to nothing; the will of the body of government should be very limited, and of course the general or sovereign will the ruling and sole director of all the others.

According to the order of nature, however, these different wills are ranged in a contrary manner; being always more active as they are concentrated in themselves. Thus the general will is always the most feeble, that of the government next, and the will of the individual the strongest of all; so that each member of the administration is to be considered first of all as an individual, secondly as a magistrate, and lastly as a citizen: a gradation directly opposite to that which the order of society requires.

This point being settled, let us suppose the administration of government committed to the hands of one man. In this case the will of the individual, and that of the body of the magistracy are perfectly united, and of consequence the latter possesses the greatest degree of intensity. Now, as it is on the degree of the will that the exertion of force depends, and as the absolute force of the government never varies, it follows that the most active of all administrations must be that of a single person.

On the contrary, if we unite the administration and the legislature; if we make the prince

the sovereign, and the citizens all so many magistrates: in this case, the will of the government, confounded with the general will, would possess no greater share of activity; but would leave the particular will of individuals to exert its whole force. Thus the government, having always the same degree of absolute force, would be at its *minimum* of relative force or activity.

These relations are incontestible, and may be farther confirmed by other considerations. It is evident, for example, that the magistrate is more active in that capacity than the citizen in his, and that of course the will of the individual must have a more considerable share of influence in the administration of government, than in the actions of the sovereign; every magistrate being almost always charged with some function of government, whereas no citizen, considered as an individual, discharges any function of the sovereignty. Beside this, the real force of a state increases, as the state increases in magnitude, though not always in the ratio of that magnitude; but while the state remains the same, it is in vain to increase the number of magistrates, as the government will not thereby acquire any additional strength, because

because its force, being always that of the state, is constantly equal. And thus the relative force or activity of government is diminished, without its real and absolute force being augmented.

It is farther certain that public affairs must be transacted more or less expeditiously according to the number of people, charged with their dispatch; that by laying too great a stress on prudence, too little is trusted to fortune; that the opportunity of success is thus frequently lost, and that by the mere force of deliberation the end of it is defeated.

This may serve to prove that the reins of government are relaxed in proportion as the magistrates are multiplied; and I have before demonstrated that the more numerous the people are, the more should the restraining power of government be increased: Hence it follows that the proportion which the number of magistrates should hold to the government should be in the inverse ratio of the subjects to the sovereign; that is to say, the more extensive the state the more contracted should be the government, the number of chiefs diminishing as that of the people increases.

I speak here only of the relative force of the government, and not of the rectitude or propriety of it. For, otherwise, it is certain that the more numerous the magistracy is, the nearer doth the will of that body approach to the general will of the whole people; whereas under a sole chief, the will of the magistracy is, as I have before observed, only that of an individual. Thus what is gained in one respect, is lost on the other; and the art of the legislator consists in tracing the fixed point, at which the force and the will of the government, always in a reciprocal proportion to each other, unite in that proportion which is most advantageous to the state.

C H A P. III.

Of the actual distinctions of governments.

WE have treated in the preceding chapter of the reasons for distinguishing the several species and forms of government, by the number of the members composing them; it remains therefore to shew, in the present, how these distinctions are actually made.

The

The sovereign authority may, in the first place, commit the charge of the government to the whole people or to the greater part of them; the number of magistrates in such case exceeding that of private citizens. This form of government is distinguished by the name of a democracy.

Or, otherwise, the supreme power may commit the office of government into the hands of a few, so that the number of private citizens may exceed that of magistrates; and this form bears the name of an aristocracy.

Or lastly, the government may be entrusted to one magistrate only, who delegates his power to all the rest. This third form is the most common, and is called a monarchy or a regal government.

It is to be observed that all these forms, and particularly the two former, are susceptible of different degrees of perfection, and admit indeed of considerable latitude in their modification: for a democracy may comprehend the whole people, or be limited to the half. An aristocracy also may comprehend any quantity

from the half of the people to the smallest number indefinitely. Nay a monarchy itself is susceptible of some distribution. Sparta, for instance, had constitutionally two kings at a time; and the Romans had even eight emperors at once, without the empire having been actually divided. Thus, we see, there is a certain point, at which each form of government is confounded with that to which it is nearest related; and thus under three distinguishing denominations only, government is really susceptible of as many different forms, as there are citizens in the state.

To go still farther; as even one and the same government is capable, in many respects, of being subdivided into parts, of which the administration may respectively differ, there may result from the varied combinations of these forms a multitude of others, every one of which may be again multiplied by all the simple forms.

Politicians have in all ages disputed much about the best form of government, without considering that each different form may possibly be the best in some cases, and the worst in others.

If

If in different states the number of supreme magistrates should be in the inverse ratio to that of the citizens, it follows that the democratical government is generally speaking better suited to small states, the aristocratical to middling states, and the monarchical to great states. This rule is deduced immediately from our principles; but it is impossible to particularize the multiplicity of circumstances which may furnish exceptions against it.

CHAP. IV.

Of a Democracy.

THE institutor of a law should certainly know better than any other person, how it ought to be understood and executed. It should seem therefore that the best constitution, must be that in which the legislative and executive powers are lodged in the same hands. It is this very circumstance, however, that renders such a government imperfect; because there doth not exist the necessary distinction, which ought to be made in its parts; while the prince and the sovereign, being one and the same person, only form, if I may so express myself, a government without a government.

It

It is not proper that the power which makes the laws should execute them, or that the attention of the whole body of the people should be diverted from general views to particular objects. Nothing is more dangerous than the influence of private interest in publick affairs; the abuse of the laws by the government, being a less evil than the corruption of the legislature; which is infallibly the consequence of its being governed by particular views. For in that case, the state being essentially altered, all reformation becomes impossible. A people who would not abuse the power of government, would be no more propense to abuse their independence; and a people who should always govern well, would have no occasion to be governed at all.

To take the term in its strictest sense, there never existed, and never will exist, a real democracy in the world. It is contrary to the natural order of things, that the majority of a people should be the governors, and the minority the governed. It is not to be conceived that a whole people should remain personally assembled to manage the affairs of the public; and it is evident, that no sooner are deputies or representatives appointed, than the form of the administration is changed.

It

It may be laid down indeed as a maxim, that when the functions of government are divided among several courts, that which is composed of the fewest persons will, sooner or later, acquire the greatest authority; though it were for no other reason than the facility with which it is calculated to expedite affairs.

Such a form of government supposes, also, the concurrence of a number of circumstances rarely united. In the first place, it is requisite that the state itself should be of small extent, so that the people might be easily assembled and all personally known to each other. Secondly, the simplicity of their manners should be such as to prevent a multiplicity of affairs, and perplexity in discussing them: And thirdly, there should subsist a great degree of equality between the rank and fortunes of individuals; without which there cannot exist long any equality between them in point of right and authority. Lastly, there should be little or no luxury; for luxury must either be the effect of wealth, or it must make it necessary; it corrupts at once both rich and poor; the one by means of the possession of wealth, and the other by means of the want of it. Luxury makes a sacrifice of

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patriotism to indolence and vanity; it robs a state of its citizens by subjecting them to each other, and by subjecting all to the influence of public prejudice.

It is for this reason that a certain celebrated author hath laid down virtue as the first principle of a republican government: for all these circumstances cannot concur without the existence of public virtue. For want, however, of making proper distinctions, this great genius hath been led into frequent mistakes, as well as want of precision; not having observed that, the sovereign authority being every where the same, the same principle must take place in every well constituted state; though it is true in a greater or less degree, according to the form of government.

To this it may be added, that no government is so subject to civil wars and intestine commotions as that of the democratical or popular form; because no other tends so strongly and so constantly to alter, nor requires so much vigilance and fortitude to preserve it from alteration. It is, indeed, in such a constitution particularly that the citizen should always be armed

ed with force and constancy, and should repeat every day, in the sincerity of his heart, the saying of the virtuous palatine *. *Malo periculam libertatem quam quietum servitium.*

Did there exist a nation of Gods, their government would doubtless be democratical; it is too perfect a form, however, for mankind.

CHAP. V.

Of an Aristocracy.

IN this form of government exist two moral persons, very palpably distinct, viz. the administration and the sovereign; which of course possess two general wills, the one regarding the citizens universally; the other only the members of the administration. Thus, although the government may regulate the interior police of the state as it pleases, it cannot address the people but in the name of the sovereign, that is to say, the people themselves; which is a circumstance never to be omitted. The primitive societies of mankind were governed aristocrati-

* The Palatine of Posnania, father of the king of Poland, Duke of Lorrain.

cally. The heads of families deliberated among themselves concerning public affairs; the young people readily submitting to the authority of experience. Hence the names of *Priests*, the *Fathers*, the *Senate*, &c. The savages of North America are governed in the same manner to this day, and are extremely well governed.

But, in proportion as the inequality arising from social institutions prevailed over natural inequality, riches and power were preferred to age *, and the aristocracy became elective. At length power, transmitted with property from father to son, making whole families patrician, rendered the government hereditary, and boys of twenty became senators.

Aristocracy therefore is of three kinds; natural, elective and hereditary. The first, is applicable only to the most simple state of society, while the last is the worst of all kinds of government. The second is the best; and is what is most properly denominated an aristocracy.

* It is evident that the term *optimates* among the ancients, did not mean the best, but most powerful.

Beside

Beside the advantage of the abovementioned distinction, this form hath also that of the choice of its members: in a popular government all the citizens are born magistrates; but in this the number of the latter are very limited, and they become such only by election*; a method by which their probity, their talents, their experience, and all those other reasons for preference in the public esteem, are an additional security that the people shall be wisely governed.

Again, their public assemblies are attended with more decorum; affairs of state are more regularly discussed, and business executed with greater order and expedition; while the credit of the state is better supported, in the eyes of foreigners, by a select number of venerable senators, than by a promiscuous or contemptible mob.

* It is of great importance to regulate by law the method of chusing magistrates; for, in leaving this to the prince, it is impossible to avoid falling into an hereditary aristocracy, as happened to the republics of Venice and Berne. Hence the first has been long since dissolved, but the second hath been supported by the great prudence of the Senate. This is an exception, however, as dangerous as honourable.

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In a word, that order would be undoubtedly the best and most natural, according to which the wise and experienced few direct the multitude, were it certain that the few would in their government consult the interest of the majority governed, and not their own. It is absurd to multiply the springs of action to no purpose, or to employ twenty thousand men in doing that, which an hundred properly selected would effect much better.

With regard to the particular circumstances requisite to this form of government; the state should not be so small, nor the manners of the people so simple or so virtuous as that the execution of the laws should coincide with the public Will, as in a well founded democracy. On the other hand also, the state should not be so extensive that the governors, distributed up and down its provinces, might be able to render themselves, each in his separate department, independant of the sovereign.

But if an aristocracy requires fewer virtues than a popular government; there are yet some which are peculiar to it; such as moderation in the rich and content in the poor: an exact equality

lity of condition would in such a government be quite improper : nor was it observed even at Sparta.

If a certain degree however, of inequality in the fortunes of the people, be proper in such a government ; the reason of it is, that in general the administration of public affairs, ought to be put into the hands of those persons who can best devote their time to such service ; not, as Aristotle pretends, that the rich ought always to be preferred merely on account of their wealth. On the contrary, it is very necessary that an opposite choice should sometimes teach the people that there exist other motives of preference much more important than riches.

CHAP. VI.

On monarchy.

HITHERTO we have considered the prince as a moral and collective personage, formed by the force of the laws, and as the depository of the executive power of the state. At present, it is our business to consider this power, as lodged in the hands of a physical personage or real man ; possessed of the right of
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exerting it agreeable to the laws. Such a person is denominated a monarch or king.

In other administrations it is common for a collective body to represent an individual being; whereas in this an individual is, on the contrary, the representative of a collective body; so that the moral unity which constitutes the prince, is at the same time a physical unity, in which all the faculties which the law combines in the former are combined naturally in the latter.

Thus the will of the people and that of the prince, together with the public force of the state, and the particular force of the government, all depend on the same principle of action: all the springs of the machine are in the same hand, are exerted to the same end; there are no opposite motions counteracting and destroying each other; nor is it possible to conceive any species of government in which the least effort is productive of so great a quantity of action. Archimedes, sitting at his ease on the shore, and moving about a large vessel on the ocean at pleasure, represents to my imagination an able monarch sitting in his cabinet, and governing his distant provinces, by keeping every thing in
motion,

motion, while he himself seems immoveable. But, if no other kind of government hath so much activity, there is none in which the particular will of the individual is so predominant. Every thing, it is true, proceeds toward the same end ; but this end is not that of public happiness ; and hence the force of the administration operates incessantly to the prejudice of the state.

Kings would be absolute, and they are sometimes told that their best way to become so, is to make themselves beloved by the people. This maxim is doubtless a very fine one, and even in some respects true. But unhappily it is laughed at in courts. That power which arises from the love of the people is without doubt the greatest : but it is so precarious and conditional, that princes have never been satisfied with it. Even the best kings are desirous of having it in their power to do ill when they please, without losing their prerogatives. It is to no purpose that a declaiming politician tells them that the strength of the people being theirs, it is their greatest interest to have the people flourishing, numerous and respectable : they know that this is not true. Their personal and private interest is,

is, in the first place, that the people should be so weak and miserable as to be incapable of making any resistance to government. I confess indeed that, supposing the people to be held in perfect subjection, it would be to the interest of the prince that they should be rich and powerful, because their strength, being also his, serves to make him respectable to his neighbours; but as this interest is only secondary and subordinate, and that these suppositions are incompatible, it is natural for princes to give the preference always to that maxim which is the most immediately useful. This is what Samuel hath represented very forcibly to the Hebrews; and Machiavel hath made evident to a demonstration. In affecting to give instructions to kings, he hath given the most striking lessons to the people: His book entitled the Prince, is particularly adapted to the service of Republics.

We have already shewn from the general relations of things, that a monarchy is suitable only to great states, and we shall be more particularly convinced of it, on a further examination. The more numerous the members of the public administration, the more is the relation between the prince and the subjects diminished, and the
nearest

nearer it approaches to nothing, or that point of equality which subsists in a democracy. This relation increases in proportion as the government is contracted; and arrives at its *maximum* when the administration is in the hands of a single person. In this case, then, there is too great a distance between the prince and people, and the state is void of connection. To supply its place, therefore, recourse is had to the intermediate ranks of people. Hence the several orders of nobility. But nothing of this kind is suitable to a small state, to which these different ranks are very destructive.

If the good government of a state be a matter of difficulty under any mode of administration, it is more particularly so in the hands of a single person; and every body knows the consequences when a king reigns by substitutes.

Again, there is one essential and unavoidable defect, which will ever render a monarchical government inferior to a republic; and this is, that in the latter, the public voice hardly ever raises unworthy persons to high posts in the administration; making choice only of men of knowledge and abilities, who discharge their respective

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functions

functions with honour: whereas those who generally make their way to such posts under a monarchical government, are men of little minds and mean talents, who owe their preferment to the meritricious arts of flattery and intrigue. The public are less apt to be deceived in their choice than the prince; and a man of real merit is as rarely to be found in the ministry of a king, as a blockhead at the head of a republic. Thus, when by any fortunate accident, a genius born for government, takes the lead in a monarchy, brought to the verge of ruin by such petty rulers, the world is amazed at the resources he discovers, and his administration stands as a singular epoch in the history of his country.

To have a monarchical state well governed, it is requisite that its magnitude or extent should be proportioned to the abilities of the regent. It is more easy to conquer than to govern. By means of a lever sufficiently long, it were possible with a single finger to move the globe; but to support it requires the shoulders of an Hercules. When a state may with any propriety be denominated great, the prince is almost always too little. And when, on the contrary, it happens, which however is very seldom, that

that the state is too little for its regent, it must be ever ill-governed; because the chief, actuated by the greatness of his own ideas, is apt to forget the interest of his people, and makes them no less unhappy from the abuse of his superfluous talents, than would another of a more limited capacity, for want of those talents which should be necessary. It is thence requisite, that a kingdom should, if I may so say, contract and dilate itself, on every succession, according to the capacity of the reigning prince: whereas the abilities of a senate being more fixt, the state, under a republican government, may be confined or extended to any determinate limits, and the administration be equally good. The most palpable inconvenience in the government of a sole magistrate, is the default of that continued succession, which, in the two other kinds, forms an uninterrupted connection in the state. When one king dies, it is necessary to have another; but when kings are elective, such elections form very turbulent and dangerous intervals; and unless the citizens are possessed of a disinterestedness and integrity, incompatible with this mode of government, venality and corruption will necessarily have an influence over them. It is very rare that he,

to whom the state is sold, does not sell it again in his turn, and make the weak repay him the money extorted from him by the strong. Every one becomes, sooner or later, venal and corrupt, under such an administration; while even the tranquillity, which is enjoyed under the kings, is worse than the disorder attending their *interregnum*.

To remedy these evils, crowns have been made hereditary, and an order of succession hath been established, which prevents any disputes on the death of kings: that is to say, by substituting the inconvenience of regencies to that of elections, an apparent tranquillity is preferred to a wise administration; and it is thought better to run the risk of having the throne supplied by children, monsters, and ideots, than to have any dispute about the choice of good kings. It is not considered, that in exposing a state to the risk of such an alternative, almost every chance is against it.

Almost every thing conspires to deprive a youth, educated to the command over others, of the principles of reason and justice. Great pains, it is said, are taken to teach young princes the art
of

of reigning; it does not appear however that they profit much by their education. It would be better to begin by teaching them subjection. The greatest monarchs that have been celebrated in history, are those who were not educated to govern. This is a science of which those know the least who have been taught the most, and is better acquired by studying obedience than command. *Nam utilissimus idem ac brevissimus bonarum malarumque rerum delectus, cogitare quid aut nolueris sub alio principe aut volueris.*

A consequence of this want of coherence, is the inconstancy of regal government, which is sometimes pursued on one plan, and sometimes on another, according to the character of the prince who governs, or of those who hold the reins of administration for him; so that its conduct is as inconsistent as the object of its pursuit is wavering. It is this inconstancy which keeps the state ever fluctuating from maxim to maxim, and from project to project; an uncertainty which does not take place in other kinds of government, where the prince is always the same. Thus we see, in general, that if there be more cunning in a court, there is more true

wisdom in a senate; and that republics accomplish their ends, by means more constant and better pursued: while on the contrary, every revolution in the ministry of a court, produces one in the state: it being the constant maxim with all ministers, and almost with all kings, to engage in measures directly opposite to those of their immediate predecessors. Again, it is from this very incoherence that we may deduce the solution of a sophism very common with regal politicians; and this is not only the practice of comparing the civil government of society to the domestic government of a family, and the prince to the father of it, (an error already exposed) but also that of liberally bestowing on the reigning magistrate all the virtues he stands in need of, and of supposing the prince always such as he ought to be. With the help of this supposition, indeed, the regal government is evidently preferable to all others, because it is incontestably the strongest; and nothing more is required to make it also the best, than that the will of the prince should be conformable to the general will of the people.

But if, according to Plato, the king by nature is so very rare a personage, how seldom may we suppose nature and fortune hath concurred to crown him? If a regal education
also

also necessarily corrupts those who receive it, what hopes can we have from a race of men thus educated? It is a wilful error, therefore, to confound a regal government in general with the government of a good king. But, to see what this species of government is in itself, it must be considered under the direction of weak and wicked princes: for such they generally are when they come to the throne, or such the throne will make them. These difficulties have not escaped the notice of some writers, but they do not seem to have been much embarrassed by them. The remedy, say they, is to obey without murmuring. God sends us bad things in his wrath, and we ought to bear with them as chastisements from on high. This way of talk is certainly very edifying; but I conceive it would come with greater propriety from the pulpit, than from the pen of a politician. What should we say of a physician who might promise miracles, and whose whole art should consist in preaching up patience and resignation? It is obvious enough that we must bear with a bad government, when we live under it; the question is to find a good one.

C H A P. VII.

Of mixed Governments.

THERE is no such thing, properly speaking, as a simple government. Even a sole chief must have inferior magistrates, and a popular government a chief. Thus in the distribution of the executive power there is always a gradation from the greater number to the less, with this difference that sometimes the greater number depends on the less, and at others the less on the greater.

Sometimes indeed the distribution is equal. either when the constituent parts depend mutually on each other, as in the English government; or when the authority of each part is independent, though imperfect, as in Poland. This last form is a bad one, because there is no union in such a government, and the several parts of the state want a due connection.

It is a question much agitated by politicians; Which is best, a simple or mixt government? The same answer however might be given to it,

as I have before made to the like question concerning the forms of government in general.

A simple government is the best in itself, though for no other reason than that it is simple. But when the executive power is not sufficiently dependent on the legislative, that is to say, when there is a greater disproportion between the prince and the sovereign, than between the people and the prince, this defect must be remedied by dividing the government; in which case all its parts would have no less authority over the subject, and yet their division would render them collectively less powerful to oppose their sovereign.

The same inconvenience is prevented also by establishing a number of inferior magistrates, which tend to preserve a ballance between the two powers, and to maintain their respective prerogatives. In this case, however, the government is not properly of a mixt kind; it is only moderated.

The like means may also be employed to remedy an opposite inconvenience, as when a government is too feeble, by erecting of proper tribunals

tribunals to concentrate its force. This method is practised in all democracies. In the first case, the administration is divided in order to weaken it, and in the second to enforce it: For a *maximum* both of strength and weakness, is equally common to simple governments, while those of mixt forms always give a mean proportional to both.

C H A P. VIII.

That every form of government is not equally proper for every country.

AS liberty is not the produce of all climates, so it is not alike attainable by all people. The more one reflects on this principle, established by Montesquieu, the more sensible we become of its truth. The more it is contested, the more we find it confirmed by new proofs.

Under every kind of government, the political personage, the public, consumes much, but produces nothing. Whence then doth it derive the substance consumed? Evidently from the labour of its members. It is from the superfluity of individuals that the necessities of the public are provided. Hence it follows

that

that a social state cannot subsist longer than the industry of its members continues to produce such superfluity.

The quantity of this superfluity, however, is not the same in all countries. It is in many very considerable, in some but moderate, in others null, and again in others negative. The proportion depends on the fertility of the climate, the species of labour required in the cultivation of the soil, the nature of its produce, the strength of its inhabitants, the consumption necessary to their subsistence, with many other similar circumstances.

On the other hand, all governments are not of the same nature; some devour much more than others, and their difference is founded on this principle, viz. that the farther public contributions are removed from their source, the more burthenfome they grow. It is not by the quantity of the imposition that we are to estimate the burthen of it, but by the time or space taken up in its returning back to the hands from which it is exacted. When this return is quick and easy, it matters little whether such imposition be small or great; the people are

always rich, and the finances in good condition. On the contrary, however low a people be taxed, if the money never returns, they are sure by constantly paying to be soon exhausted; such a state can never be rich, and the individuals of it must be always beggars.

It follows hence that the farther the people are removed from the seat of government, the more burthensome are their taxes: thus in a democracy their weight is least felt: in an aristocracy they fall more heavy; and in a monarchical state they have the greatest weight of all. Monarchy, therefore, is proper only for opulent nations; aristocracy for middling states; and a democracy for those which are mean and poor.

In fact, the more we reflect on this circumstance, the more plainly we perceive the difference in this respect between a monarchical and a free state. In the latter, all its force is exerted for the public utility; in the former, the public interest of the state and the private interest of the prince are reciprocally opposed; the one increasing by the decrease of the other.

In a word, instead of governing subjects in such a manner as to make them happy, despotism makes them miserable, in order to be able to govern them at all.

Thus may we trace in every climate those natural causes, which point out that particular form of government which is best adapted to it, as well as even the peculiar kind of people that should inhabit it. Barren and ungrateful soils, whose produce will not pay for the labour of cultivation, would remain uncultivated and uninhabited, or, at best, would be peopled only with savages. Those countries from which the inhabitants might draw the necessities of life, and no more, would be peopled by barbarians, among whom the establishment of civil polity would be impossible. Such places as might yield to their inhabitants a moderate superfluity, would be best adapted to a free people; while the country where fertile plains and plenteous vales more bounteously reward the labours of the cultivator, would best suit with a monarchical form of government, in order that the luxury of the prince might consume the superfluity of the subjects: for it is much better that this superfluity should be expended by government than dissipated by individuals. I am not insensible that some ex-

ceptions

ceptions might be made to what is here advanced ; these very exceptions, however, serve to confirm the general rule, in that they are sooner or later constantly productive of revolutions, which reduce things to their natural order.

We should always make a distinction between general laws, and those particular causes which may diversify their effects. For, though the southern climates should be actually filled with republics, and the northern with despotic monarchies, it would be nevertheless true in theory, that, so far as climate is concerned, despotism agrees best with an hot, barbarism with a cold, and good polity with a temperate region. I am aware farther that, even granting the principle, the application of it may be disputed. It may be said, that some cold countries are very fertile, while others more warm and southern are very barren. This objection, however, hath weight only with such as do not examine the matter in every point of view. It is requisite to take into consideration, as I before observed, the labour of the people, their strength, their consumption, with every other circumstance that affects the point in question.

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Let us suppose two countries of equal extent, the proportion of whose product should be as five to ten. It is plain that, if the inhabitants of the first consume four, and of the latter nine, the superfluity of the one would be $\frac{1}{5}$, and that of the other $\frac{1}{9}$. Their different superfluities being also in an inverse ratio to that of their produce, the territory whose produce should amount only to five, would have near double the superfluity of that which should amount to ten.

But the argument does not rest upon a double produce; nay I doubt whether any person will place the actual fertility of cold countries in general, in a bare equality with that of warmer climates. We will suppose them, however, to be in this respect simply equal; setting England, for instance, on a balance with Sicily, and Poland with Egypt. Still farther to the South we have Africa and the Indies, and to the North hardly any thing. But to effect this equality in the produce, what a difference in the labour of cultivation! In Sicily they have nothing more to do than barely turn up the earth: in England agriculture is extremely toilsome and laborious. Now, where a greater number of
hands

hands is required to raise the same produce, the superfluity must necessarily be less.

Add to this, that the same number of people consume much less in a warm country than in a cold one. An hot climate requires men to be temperate, if they would preserve their health. Of this the Europeans are made sensible, by seeing those who do not alter their manner of living in hot countries, daily carried off by dysenteries and indigestion. Chardin represents us, as beasts of prey, as mere wolves in comparison of the Asiatics; and thinks those writers mistaken, who have attributed the temperance of the Persians, to the uncultivated state of their country. His opinion is that their country was so little cultivated, because the inhabitants required so little for their subsistence. If their frugality were merely the effect of the barrenness of their country, he observes, it would be only the poorer sort of them that should eat little; whereas their abstinence is general. Again, they would in such case be more or less abstemious in different provinces, as those provinces differed in degrees of sterility; whereas their sobriety is general, and prevails equally throughout the kingdom. He tells

us,

us, also, that the Persians boast much of their manner of living; pretending their complexions only to be a sufficient indication, of its being preferable to that of the Christians. At the same time, he admits that their complexions are very fine and smooth; that their skin is of a soft texture, and polished appearance; while, on the other hand, the complexion of the Armenians, their subjects, who live after the European manner, is rough and pimply, and their bodies gross and unwieldy.

The nearer we approach to the line, it is certain, the more abstemious we find the people. They hardly ever eat meat; rice and maize are their ordinary food. There are millions of people in the Indies, whose subsistence does not amount to the value of a penny a day. We see even in Europe, a very sensible difference, in this respect, between the inhabitants of the North and South. A Spaniard will subsist a whole week, on what a German would eat up at a single meal. In countries where the people are voracious, even luxury hath a tendency to consumption. Thus in England it displays itself in the number of dishes and quantity of solid meat on the table; while in Italy, a re-
past

past is furnished out with sweetmeats and flowers.

The luxury of dress presents us, also, with similar differences. In climates, where the change of the weather is sudden and violent, the people wear better and plainer clothes; while in those where the inhabitants dress only for ornament, brilliancy is more consulted than use; even clothes themselves are an article of luxury. Thus at Naples, you will daily see gentlemen walking about in laced clothes without stockings. It is the same with regard to buildings: magnificence only is consulted, where nothing is to be feared from the inclemencies of the weather. At Paris and London people are desirous of warm and commodious apartments. At Madrid, they have superb saloons, but no fashies nor casements; and their beds lie open to the rats that harbour in the roof.

The aliment is also more substantial and nourishing in hot countries than in cold; this is a third difference that cannot fail to have an influence over the second. Wherefore is it that the Italians eat such a quantity of vegetables? Because they are good, and of an excellent flavour. In France, where

where they are themselves nourished chiefly by water, they are less nutritive, and are held of little consequence. They occupy nevertheless as much ground, and cost as much pains to cultivate them. It hath been experimentally proved that the corn of Barbary, in other respects inferior to that of France, gives a greater quantity of meal, and that the French corn yields still more than that of the North. Hence it may be inferred that a similar gradation is carried on in the same direction from the line to the pole. Now is it not an evident disadvantage to have, in an equal produce, a less quantity of aliment?

To all these different considerations, I may add another, which arises from, and serves to confirm them; this is, that hot countries require fewer inhabitants than the cold, and yet afford subsistence for more; a circumstance that causes a two-fold superfluity, always to the advantage of despotism. The more the same number of people are distributed over the face of a large territory, the more difficult becomes a revolt; as they cannot meet together so readily or secretly, and it is always easy for the government to cut off their associations, and ruin their projects.

jects. On the other hand, the more a numerous people are collected together, the less can the government assume over the sovereign; the chiefs of a faction may deliberate as securely at their meetings, as the prince in his council; and the mob are as readily assembled in the public squares as the troops in their quarters. It is the advantage of a tyrannical government, therefore, to act at great distances; its force increasing with the distance like that of a lever*, by the assistance of a proper center. That of the people, on the contrary, acts only by being concentrated; it evaporates and loses itself when dilated, even as gunpowder scattered on the ground, takes fire, particle by particle, and is productive of no effect. Countries thinly in-

* This doth not contradict what is advanced in Chap. ix. Book II. concerning the inconvenience of great states; the matter in question there being the authority of the government over its members, and here of its influence over the subjects. Its members, scattered about in different places, serve as points of support to enable it to act at a distance on the people; but it hath no such props to assist its action on its members themselves. Thus in one case the length of the lever is the cause of its strength, and in the other of its weakness.

habited

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habited are the most proper places for tyrants ; wild beasts reign only in deserts.

CHAP. IX.

Of the marks of a good Government.

WHEN it is asked, therefore, in general terms, what is the best form of government ? the question is as indeterminate as unanswerable : or rather it may be reasonably answered as many different ways as there are possible combinations of the absolute and relative circumstances of a people.

But if it be asked, by what signs it may be known whether any given people are well or ill governed ? This is quite another thing, and the question, as to the fact, is to be resolved.

This question, however, is never actually resolved, because every one is for doing it after his own manner. The subject cries up the public tranquillity, the citizen the liberty of individuals ; the one prefers the security of property, the other that of his person ; the one maintains the best government to be the most severe, the other affirms that to be best which is most agreeable ;

able; the latter is for punishing crimes, the former for preventing them: the one thinks it a fine thing to be dreaded by his neighbours; the other thinks it better to be unknown to them; the one is satisfied if money does but circulate, the other requires the people should have bread. Were they even agreed also on these and other similar points, they would not be much nearer the end of the dispute. Moral quantities are deficient in point of precision; so that, were men agreed on the sign, they would still differ about its estimation.

For my part, I am astonished that a sign so very simple should be mistaken, or that any should be so disingenuous as not to acknowledge it. What is the end of political society? doubtless the preservation and prosperity of its members. And what is the most certain sign or proof of these? Certainly it is their number and population. Let us not look elsewhere, then, for this disputed proof; since it is plain, that government must be the best, under which the citizens increase and multiply most, supposing all other circumstances equal, and no foreigners naturalized or colonies introduced, to cause such increase: and that, on the
contrary

contrary, that government must be the worst, under which, *cæteris paribus*, the number of people should diminish. This being admitted, the decision of the question becomes an affair of calculation *, and as such I give it up to the arithmeticians.

C H A P.

* It is on the same principle that we ought to judge of the several periods of time that deserve the preference, in being distinguished for the prosperity of mankind. We have in general too much admired those, in which literature and the fine arts have flourished, without penetrating into the secret cause of their cultivation, or duly considering their fatal effects; *idque apud imperitos humanitas vocabatur, cum pars servitutis esset*. Shall we never be able to see through the maxims laid down in books, the interested motives of their authors?—No, let writers say what they will, whenever the inhabitants of a country decrease, it is not true that all things go well, whatever be its external prosperity and splendour: A poet possessed of an hundred thousand livres a year, does not necessarily make the age he lives in the best of all others. We should not so much regard the apparent repose of the world, and the tranquillity of its chiefs, as the well-being of whole nations, and particularly of the most populous states. A storm of hail may lay waste some few provinces, but it seldom causes a famine. Temporary tumults and
civil

CHAP. X.

Of the abuse of government, and its tendency to degenerate.

AS the particular will of the prince acts constantly against the general will of the people, the government necessarily makes a continual effort against the sovereignty. The greater this effort is, the more is the constitution altered ; and as in this case there is no other distinct Will to keep that of the prince in equilibrio, it must sooner or later infallibly happen that

civil wars may give much disturbance to rulers ; but they do not constitute the real misfortunes of a people, who may even enjoy some respite, while they are disputing who shall play the tyrant over them. It is from their permanent situation that their real prosperity or calamity must arise : when all submit tamely to the yoke, then it is that all are perishing ; then it is that their chiefs, destroying them at their ease, *ubi solitudinem faciunt pacem appellant*. When the intrigues of the nobility agitated the kingdom of France, and the coadjutor of Paris carried a poignard in his pocket to parliament ; all this did not hinder the bulk of the French nation from growing numerous and en-

that the prince will oppress the sovereign, and break the social compact. This is an inherent and unavoidable defect, which from the very birth of the political body, incessantly tends to its dissolution, even as old age and death tend to the dissolution of the natural body.

There are two general methods according to which a government degenerates; viz. when it contracts itself, or when the state is dissolved. The government contracts itself, when its members are reduced from a great number to a few; that is to say, from a democracy to an aristocracy, and from an aristocracy to a royalty.

enjoying themselves in happiness and ease. Ancient Greece flourished in the midst of the most cruel wars: human blood was spilt in torrents, and yet the country swarmed with inhabitants. It appears, says Machiavel, that, in the midst of murders, proscriptions and civil wars, our republic became only the more powerful, the virtue of the citizens, their manners, their independence had a greater effect to strengthen it, than all its dissensions had to weaken it. A little agitation gives vigour to the mind, and liberty, not peace, is the real source of the prosperity of our species.

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This is its natural tendency *. Should it make a retrogressive change, by having the number of

* The slow formation and progress of the republic of Venice, present a notable example of this succession; and it is very surprising that in the space of 1200 years the Venetians should be got no farther than to the second term, which began in the year 1198. With regard to the ancient dukes, with which their constitution is reproached, it is certain, whatever some writers may say, that they were not sovereigns.

The Roman republic will, doubtless, be made an objection, as having taken a contrary route, in its progress from monarchy to aristocracy, and from aristocracy to democracy. I am, however, far from thinking this was the real case.

The first establishment of Romulus was a mixed government, which degenerated presently into despotism. From very particular causes the state perished before its time, as a new born infant, before it attained the age of manhood. The expulsion of the Tarquins, was the true era of the rise of that republic; although it did not assume at first a determinate form; because the work was but half done, in not having abolished the order of patricians. For hence, an hereditary aristocracy, the worst of all administrations,

of its members increased, it might be said to relax or dilate itself; but this inverse progress is impossible.

In fact, a government never changes its form, except its spring of action be too much worn to support its own. Now, if it relaxes still more, by being extended, its force becomes absolutely nothing,

stitutions, acting in opposition to the democracy, the form of government remained indeterminate; not being fixed, as Machiavel observes, till the establishment of the tribunes; when, and not before, it was a real government under the form of a true democracy. In fact, the people were then not only sovereign, but also magistrate and judge; the senate being a tribunal of an inferior order, formed to temper and collect the government; while even the consuls themselves although patricians, first magistrates, and as generals absolute in the field, yet at Rome they were only presidents of the assemblies of the people.

From this time it is evident the government followed its natural bias, and tended strongly toward aristocracy. The patrician order dying away of itself, the aristocracy subsisted no longer in the members of that body, as at Venice and Genoa, but in the body of the senate composed of Patricians and Plebeians, and even in the body of tribunes when they

nothing, and is still less capable of supporting itself. It is necessary therefore to wind up and renew such spring in proportion as it gives way ; otherwise the state it is intended to support, must necessarily fall.

The dissolution of the state indeed may happen two ways. First, when the prince does not govern according to law ; but arrogates the sovereign power to himself : in which case he effects a remarkable change, whereby not the government, but the state itself is contracted. What I mean to say is, that the great state is thence dissolved, and that he forms another within it, composed only of the members of the government, who are only the masters and tyrants over the rest of the people. So

began to usurp an active power. For words make no alteration in things. When the people have chiefs who govern in their stead, whatever denomination be given to those chiefs, the government is always an aristocracy. From the abuse of the aristocratical form, arose the civil wars and the triumvirate. Sylla, Julius Cæsar and Augustus indeed became real monarchs, and at length under the despotism of Tiberius the state was finally dissolved. The Roman history, therefore, doth not tend to disprove my principle, but to confirm it.

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that when the government usurps the sovereignty, at that instant the social compact is broken, and the individuals, who were citizens before, are restored to the rights of natural liberty, and are compelled, not legally obliged, to obedience.

It is the same thing, when the members of government assume separately the power they are entitled to exercise only collectively; which is no less an infringement of the laws, and is productive of still worse consequences. For, in this case, there may be said to be as many princes as magistrates; while the state no less divided than the government, is totally dissolved or changes its form.

When the state is dissolved, the abuse of government, of whatever nature it be, takes the common name of anarchy. To distinguish more nicely, *democracy* is said to degenerate into *ochlocracy*; *aristocracy* into *oligarchy*; and I may add *monarchy* into *tyranny*: but this last term is equivocal, and requires some explanation. In the vulgar sense of the word, a tyrant is a king who governs by force and without regard to justice or the laws. In the more precise and determinate sense, it means any indi-

vidual who assumes the royal authority, without having a right to it. In this latter sense the Greeks understood the word tyrant; and give it indiscriminately both to good and bad princes whose authority was not legal*. Thus, *tyrant* and *usurper* are two words perfectly synonymous.

To give different names, however, to different things, I call the usurpation of regal authority, *tyranny*, and that of sovereign power *despotism*. The tyrant is he, who takes upon himself, contrary to law, to govern according to law; and the despotic chief, one who places himself above the laws themselves. Thus a tyrant cannot be despotic, though a despotic prince must always be a tyrant.

* *Omnes enim et habentur et dicuntur tyranni qui potestate utuntur perpetuâ, in eâ civitate quæ libertate usa est.* CORN. NEPOS. IN MILTIADE. It is true, that Aristotle makes a distinction between the tyrant and king, in that the one governs for his own good, and the other for the good of his subjects: but, besides that all the Greek writers use the word tyrant in a different sense, as appears particularly by the Hieron of Xenophon, it would follow from Aristotle's distinction that no king ever existed on the face of the earth.

C H A P. XI.

Of the dissolution of the body politic.

SUCH is the natural and unavoidable tendency of even the best constituted governments. If Rome and Sparta perished, what state can hope to last for ever? In our endeavours to form a durable establishment, we must not think, therefore, to make it eternal. If we would hope to succeed, we must not attempt impossibilities, nor flatter ourselves to give that permanency to human institutions, which is incompatible with their nature.

The body politic, as well as the physical, begins to die at its birth, and bears in itself the causes of its destruction. Both, however, may possess a constitution more or less robust, and adapted to different periods of duration. The constitution of man is the work of nature; that of the state, is the work of art. It doth not depend on men to prolong their lives, but it depends on them to prolong that of the state as much as possible, by giving it a constitution the best adapted to longevity. The most perfect constitution, it is true, will have an end;

but still so much later than others, if no unforeseen accident bring it to an untimely dissolution.

The principle of political life, lies in the sovereign authority. The legislative power is the heart of the state; the executive power is the brain, which puts every part in motion. The brain may be rendered useless by the palsy, and yet the individual survive. A man may become an insensible driveller and yet live: but as soon as the heart ceases to beat, the animal is dead.

The state doth not subsist by virtue of the laws, but by the legislative power. The statutes of yesterday are not in themselves necessarily binding to day, but the tacit confirmation of them is presumed from the silence of the legislature; the sovereign being supposed incessantly to confirm the laws not actually repealed. Whatever is once declared to be the will of the sovereign, continues always so, unless it be abrogated.

Wherefore, then, is there so much respect paid to ancient laws? Even for this reason. It is rational to suppose, that nothing but the
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excellence of the ancient laws, could preserve them so long in being; for that, if the sovereign had not found them always salutary and useful, they would have been repealed.

Hence we see that the laws, instead of losing their force, acquire additional authority by time, in every well formed state; the prepossession of their antiquity renders them every day more venerable; whereas, in every country where the laws grow obsolete and lose their force as they grow old, this alone is a proof that the legislative power itself is decayed, and the state extinct.

C H A P. XII.

By what means the sovereign authority is maintained.

THE sovereign, having no other force than the legislative power, acts only by the laws; while the laws being only the authentic acts of the general will, the sovereign cannot act unless the people are assembled. The people assemble! you will say. What a chimera?—It is indeed chimerical at present; though it was not reckoned so two thou-

land years ago. Are mankind changed in their nature since that time?

The bounds of possibility in moral affairs are less confined than we are apt to imagine: It is our foibles, our vices, our prejudices that contract them. Mean souls give no credit to the sentiments of heroic minds; while slaves affect to turn the notion of liberty, into ridicule.

By what hath been done, however, we may judge of what may be done again. I shall not speak of the petty republics of ancient Greece; but the Roman republic was, undoubtedly, a great state, and the city of Rome a great city. By the last register of the citizens of Rome, their number amounted to four hundred thousand persons capable of bearing arms; and the last register of the Empire amounted to more than four millions of citizens, without reckoning subjects, women, children or slaves.

How very difficult, you will say, must it have been, to assemble frequently the people of that capital and its environs? And yet hardly a week passed in which the Roman people were not assembled, and on some occasions several times a week,

a week. This numerous body indeed not only exercised the functions of sovereignty, but also in some cases those of government. They sometimes deliberated on state affairs, and at others decided in judicial causes; the whole people being publicly assembled almost as frequently in the capacity of magistrates as citizens.

By recurring to the primitive state of nations, we shall find that most of the ancient governments, even the monarchical, as that of the Macedon and others, had the like popular assemblies. Be this, however, as it may, the fact being once incontestibly proved, obviates all difficulties; for, to deduce the possibility of a thing from its having actually happened, will admit of no objection.

C H A P. XIII.

The subject continued.

IT is not enough, however, that the people once assembled should fix the constitution of the state, by giving their sanction to a certain code or system of laws: it is not enough that they should establish a perpetual government, or provide once for all by the election of magistrates. Besides the extraordinary assemblies, which unforeseen accidents may require, it is necessary they should have certain fixed and periodical meetings, which nothing might abolish or prorogue: so that the people should, on a certain day, be legally summoned by law, without any express statute being required for their formal convocation.

But, excepting these regular assemblies, rendered legal by the date, all others, unless convoked by the proper magistrate previously appointed to that end, agreeable to prescribed forms, should be held illegal, and all their determinations declared null and void; because the very manner of the people's assembling should be determined by law.

As

As to the frequency of legal assemblies, it depends on so many different considerations, that it is impossible to lay down any precise rules on this head. It can only be said in general that the more powerful the governments, the more often ought the sovereignty to display itself.

All this, it may be said, is very well for a single town or city; but what must be done in a state comprehending several cities? Must the sovereign authority be distributed, or ought it to centre in one, to the total subjection of the rest?

I answer, neither one nor the other. In the first place, the sovereign authority is simple and uniform, so that it cannot be divided without destroying it. In the next place, one city cannot be legally subject to another, any more than one nation to another; because the essence of the body politic consists in the union of obedience and liberty, and in the terms *subject* and *sovereign* being those identical correlatives, the ideas of which are united in the single term *citizen*.

I answer

I answer farther, that it is fundamentally wrong, to unite several towns to form one city; and that such union being made, the natural inconveniences of it must ensue. The abuses peculiar to great states must not be made objections to the system of one, who maintains the exclusive propriety of little ones. But how, it will be said, can little states be made powerful enough to resist the great?—Even as the cities of ancient Greece were able to resist the arms of a powerful monarch; and, as in more modern times, Switzerland and Holland, have resisted the power of the house of Austria.

In cases, also, where the state cannot be reduced within proper bounds, there remains one resource; and this is by not permitting the existence of a capital, but removing the seat of government from one town to another, and assembling the states of the country in each alternately.

People a country equally in every part; diffuse the same privileges and advantages throughout; and the state will become at once the strongest and the best governed. Remember that the walls of cities are founded on the ruins of the villages, and that the splendid palaces
in

in town are raised at the expence of miserable cottages in the country.

CHAP. XIV.

Subject continued.

NO sooner are the people legally assembled, in a sovereign body, than the jurisdiction of government ceases, the executive power of the state is suspended, and the person of the meanest citizen becomes as sacred and inviolable as the greatest magistrate; because when the body represented appears, it is not requisite that the representatives of it should exist. Most of the tumults which happened in the *Comitia* at Rome, were owing to the general ignorance or neglect of this rule. On those occasions, the consuls were only presidents of the assembly of the people, the tribunes merely orators*, and the senate absolutely nothing.

These intervals of suspension, when the prince acknowledges, or at least ought to ac-

* Nearly in the sense given to those who speak on any question in the parliament of England. The resemblance of their employments set the consuls and tribunes together by the ears; even when their jurisdiction was suspended.

knowledge

knowledge an actual superior, have been always formidable, while such formidable assemblies, the security of the body politic and the restraint of government, have been held in honour by the chiefs : so that they never have been sparing of pains, in raising objections and difficulties, or of making fair promises in order to disgust the citizens with such meetings. When the latter, therefore, have been avaritious, mean, or cowardly, preferring their ease to liberty, they have not been able to withstand long the repeated efforts of government : and thus it is that, this encroaching power incessantly augmenting, the sovereignty becomes totally extinct, and thus most cities come to an untimely end.

Sometimes, however, there is introduced between sovereign authority and arbitrary government, a mean term of power, of which it is necessary to treat.

C H A P. XV.

Of deputies or representatives.

WHEN the service of the public ceases to be the principal concern of the citizens, and they had rather discharge it by their purses than their persons, the state is already far advanced toward ruin. When they should march out to fight, they pay troops to fight for them, and stay at home. When they should go to council, they send deputies, and stay at home. Thus, in consequence of their indolence and wealth, they in the end employ soldiers to enslave their country, and representatives to betray it.

It is the bustle of commerce and the arts; it is the sordid love of gain, of luxury and ease, that thus convert personal into pecuniary services. Men readily give up one part of their profit, to increase the rest unmolested. But supply an administration with money, and they will presently supply you with chains. The very term of *taxes* is slavish, and unknown in a free city. In a state truly free, the citizens discharge their duty to the public with their

own hands, and not by money. So far from paying for being exempted from such duty, they would pay to be permitted to discharge it themselves. I am very far from adopting received opinions, and think the services exacted by force a less infringement of liberty than taxes.

The better the constitution of a state, the greater influence have public affairs over private, in the minds of the citizens: They will have, also, much fewer private affairs to concern them; because the sum total of their common happiness, furnishing a more considerable portion to each individual, there remains the less for each to seek from his own private concerns. In a city well governed, every one is ready to fly to its public assemblies; under a bad government they are careless about going thither at all; because no one interests himself in what is doing there; it is known that the general will does not influence them, and hence at length domestic concerns engage all their attention. Good laws tend to the making better, while bad ones are introductory of Worse. No sooner doth a citizen say, what are state-affairs to me? than the state may be given up for lost.

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It is this want of public spirit, the influence of private interest, the extent of states, conquests and abuses in government, that have given rise to the method of assembling the people by deputies and representatives. The assembly of these representatives is called in some countries, the third estate of the nation; so that the particular interests of the two orders are placed in the first and second rank, and the public interest only in the third.

The sovereignty, however, cannot be represented, and that for the same reason that it cannot be alienated. It consists essentially of the general will, and the will cannot be represented: it is either identically the same, or some other; there can be no mean term in the case. The deputies of the people, therefore, neither are nor can be their representatives; they are only mere commissioners, and can conclude definitively on nothing. Every law that is not confirmed by the people in person is null and void; it is not in fact a law. The English imagine they are a free people; they are however mistaken: they are such only during the election of members of parliament. When these are chosen, they become slaves again; and indeed they make so bad a use of the few

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transitory moments of liberty, that they richly deserve to lose it.

The notion of representatives is modern; descending to us from the feudal system, that most iniquitous and absurd form of government, by which human nature was so shamefully degraded. In the ancient republics, and even monarchies, the people had no representatives; they were strangers to the term. It is even very singular that, at Rome, where the Tribunes were so much revered, it was never imagined they could usurp the functions of the people; and as strange that they never once attempted it. One may judge, however, of the embarrassment sometimes caused by the multitude, by what happened in the time of the Gracchi, when part of the citizens gave their votes from their house-tops.

Where men value their liberty and privileges above every thing, inconveniences and difficulties are nothing. Among this wise people things were held in a proper estimation; they permitted the Licitors to do what they would not suffer the Tribunes to attempt; they were not
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afraid the Licitors would ever think of representing them.

To explain, nevertheless, in what manner these Tribunes did sometimes represent them, it will be sufficient to conceive how government represents the sovereign. The law being only a declaration of the general will, it is clear that the people cannot be represented in the legislative power ; but they may, and ought to be, in the executive ; which is only the application of power to law. And this makes it evident that, if we examine things to the bottom, we shall find very few nations that have any laws. But, be this as it may, it is certain that the Tribunes, having no part of the executive power, could not represent the Roman people, by virtue of their office, but only in usurping those of the senate.

Among the Greeks, whatever the people had to do, they did it in person ; they were perpetually assembled in public. They inhabited a mild climate, were free from avarice, their slaves managed their domestic business, and their great concern was liberty. As you do not possess the same advantages, how can you expect

pect to preserve the same privileges? Your climate being more severe, creates more wants*; for six months in the year your public squares are too wet or cold to be frequented; your hoarse tongues cannot make themselves heard in the open air; you apply yourselves more to gain than to liberty, and are less afraid of slavery than poverty.

On this occasion, it will probably be asked me, if liberty cannot support itself without the assistance of slavery? Perhaps not. At least the two extremes approach very near. Whatever does not exist in nature, must have its conveniences, and civil society still more than any thing else. There are some circumstances so critically unhappy that men cannot preserve their own liberty but at the expence of the liberty of others; and in which a citizen cannot be perfectly free without aggravating the subjection of his slaves. Such was the situation of Sparta. As for you, ye moderns, you have no slaves, but are slaves yourselves, and purchase

* To adopt in cold countries the luxury and effeminacy of the East, is to appear desirous of slavery, without having the same excuse for submitting to it.

their

their liberty by your own. You may if you please boast of this preference; for my part, I find more meanness in it than humanity.

I do not intend, however, by this to inculcate that we should have slaves, or that it is equitable to reduce men to a state of slavery; having already proved the contrary. I am here only giving the reasons why certain modern nations who imagine themselves free, employ representatives, and why the ancients did not. But let this be as it will, I affirm that when once a people make choice of representatives, they are no longer free.

Every thing duly considered, I do not see a possibility of the sovereign maintaining its rights, and the exercise of its prerogatives, for the future among us, unless the state be indeed very small. But if it be so very small, will it not be liable to lose its independency? No. I will make it hereafter appear in what manner the exterior power of a great people may be united with the policy and good order of a little one.

C H A P. XVI.

That the institution of government is not a compact.

THE legislative power being once well established, we proceed to settle the executive power in the same manner: for the latter which operates only by particular acts, being essentially different from the other, is naturally divided from it. If it were possible for the sovereign, considered as such, to possess the executive power, the matter of right and fact would be so confounded, that we should no longer be able to distinguish what is law and what is not; the body politic also being thus unnaturally situated, would soon become a prey to that violence, which it was originally instituted to correct.

The citizens being, by virtue of the social compact, all equal, that which all may perform, all may prescribe, whereas none can have a right to require another to do what he does not himself. Now it is properly this right, indispensibly necessary to animate and put the body politic in motion, with which the sovereign invests

rests the prince in the institution of government.

It has been pretended by some that the act forming this institution, was a contract between the people and the chiefs of which they made choice: a contract in which the two parties stipulated the conditions on which the one obliged themselves to command, and the other to obey. I am persuaded every one will agree with me that this was a very strange mode of contract. But let us see whether this opinion is in itself well founded.

In the first place the supreme authority can no more modify or alter its form than it can alienate itself; to limit or restrain, would be to destroy it. It is absurd and contradictory to say the sovereign made choice of a superior: to oblige itself to obey a master, is to dissolve its own constitution, and restore its members to their natural liberty.

Again, it is plain that such a supposed contract between the people in general and certain particular persons would be a particular act; whence it follows that it would not be a law
nor

nor an act of sovereignty, and of consequence would be illegal.

It is farther evident, that the contracting parties would remain, respecting each other, simply under the laws of nature, without any security for the performance of their reciprocal engagements, a circumstance totally repugnant to a state of civil society. The party only who might have the power, could enforce the execution of the terms; so that we might as well give the name of a contract, to the act of a man who should say to another, "I give you my whole property, on condition that you will restore me just as much of it as you please."

There is but one compact in a state, and that is the act of association, which alone is exclusive of every other; as it is impossible to imagine any subsequent public contract which would not be a violation of the original.

C H A P. XVII.

Of the institution of government.

WHAT notion, then, are we to form of the act, by which government is instituted? In answer to this question, I shall first remark that this act is complicated, or composed of two others, viz. the establishment of the law and the execution of it.

By the first, the sovereign enacts that a government shall be established in such or such a form; and it is clear, this being a general act, that it is a law.

By the second, the people name the chiefs who are to be charged with the administration of the government so established. Now this nomination, being a particular act, is not a second law, but only a consequence of the first, and in reality an act of government.

The difficulty lies in being able to comprehend how an act of government can take place before the government existed, and how the

people, who must be always either sovereign or subjects, become prince or magistrate, in certain circumstances.

We have here made a discovery of one of these astonishing properties of the body politic, by which it reconciles operations apparently contradictory to each other ; this act being effected by a sudden conversion of the sovereignty into a democracy : so that, without any sensible change, and only by means of a new relation of all to all, the citizens, becoming magistrates, pass from general acts to particular ones, and from enacting laws to the execution of them.

This change of relation is not a matter of mere speculation, unexemplified in practice: it takes place very frequently in the parliament of England, where among the commons, the whole house is formed on certain occasions, into a committee, for the better enquiry into, and discussion of the matter in hand ; the members become mere commissioners of the sovereign court they constituted but a moment before. Agreeable to which, the enquiry being ended, they make a report to themselves, as the house of Commons, of their proceedings as a grand
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committee, and deliberate anew under the former title on what they had already determined under the latter.

Such, indeed, is the peculiar advantage of a democratical government, that it is established in fact by the simple act of the general will. After which, this provisional government continues, if such be the intended form; or establishes, in the name of the sovereign, the form of government adopted by law; and thus every thing proceeds according to order. It is impossible to institute a government in any other legal manner, without renouncing the principles before established.

CHAP. XVIII.

Of the means of preventing the usurpations of government.

FROM the foregoing illustrations results the confirmation of what is asserted in the XVIth chapter, viz. that the act which institutes government is not a contract but a law; that the depositories of the executive power are

not the masters, but the servants of the people; that the people may appoint or remove them at pleasure; that they have no pretence to a contract with the people, but are bound to obey them; and that in accepting the offices the state imposes on them, they only discharge their duty as citizens, without having any sort of right to dispute the conditions.

When it so happens, therefore, that the people establish an hereditary government, whether monarchical, and confined to one particular family, or aristocratical, and divided among a certain order of citizens, they do not enter thereby into any formal engagement; they only give the administration a provisional form, which remains legal till they think proper to change it.

It is certain that such changes are always dangerous, and that a government once established should not be meddled with, unless it be found incompatible with the public good; but this circumspection is a maxim of policy, and not a matter of right. The state, however, is no more bound to resign the civil authority

thority into the hands of its magistrates or chiefs, than the military authority into those of its generals.

It is certain, also, that great care should be taken to observe all those formalities, which, in such a case, are requisite to distinguish a regular and legal act from a seditious commotion; to distinguish between the general will of a whole people and the clamours of a faction. In which latter case, a people are particularly obliged to give the best founded remonstrances no farther countenance, than in the utmost strictness of justice they may deserve. Of this obligation, however, the prince may take great advantages, in order to preserve his power in spite of the people, without running the risk of being charged with usurping it. For in appearing only to make use of his prerogatives, he may extend them, and under the pretence of maintaining the public peace, may prevent those assemblies which might otherwise be calculated to re-establish the good order of government: so that he might profit by that silence which he keeps from being broken, and by those ir-

regularities which he himself might cause to be committed; pleading in his favour the tacit approbation of those whose fears keep them silent; and punishing those who are bold enough to speak. It was thus the *decemviri*, at first elected for one year only, and afterwards continued for another, attempted to perpetuate the duration of their power, by preventing the *Comitia* from assembling as usual; and it is by such easy means that all the governments in the world, when once invested with power, usurp sooner or later the sovereign authority.

Those periodical assemblies, of which I have spoken above, are very proper to prevent, or protract, this misfortune, particularly when they require no formal convocation; for then the prince cannot prevent them without declaring himself openly a violator of the laws, and an enemy to the state.

The opening of these assemblies, which have no other object than the preservation of the social contract, ought always to be made by

two propositions, which can never be suppressed, and should pass separately by vote.

FIRST; Whether it be the determination of the sovereign to preserve the present form of government.

SECOND; Whether it be the determination of the people to continue the administration in the hands of those, who are at present charged with it.

It is to be observed, that I here take for granted, what I conceive has already been demonstrated, viz. that there is no fundamental law in any state, which such state cannot repeal, not excepting even the social compact: for, should all the citizens assemble with one accord to break this compact, it would undoubtedly be very legally dissolved. Grotius even thinks that an individual may renounce the state of which he is a member, and resume his natural independence and property by leaving the country*. Now it would be very

* With this exception, however, that he does not fly, to elude his duty, and avoid serving his country

very absurd to suppose that the whole body of citizens united, could not do that in concert, which any one of them might do separately.

try on any emergency, when his service is required. In this case his flight would be criminal and highly deserving of punishment. It would not be a retreat but desertion.

The END of the THIRD BOOK.

BOOK

BOOK IV.

CHAP. I.

That the general will cannot be annihilated.

SO long as a number of individuals remain perfectly united and consider themselves as one body, they can have but one will; which relates to their common preservation and welfare. All the resources of the state, are then simple and vigorous, its political maxims clear and obvious; it comprehends no intricate and opposite interests; but that of the public is demonstrably evident to all, and requires only the gift of common sense to understand it. Peace, concord, and equality are enemies to political refinements. When men are honest, and simple, their very simplicity prevents their deception; they are not to be imposed on by sophistry, but are too artless even to be duped. When it is known, that, among the happiest people in the world, a number of peasants meet together under the shade of an oak, and regulate the affairs of state, with the most prudent œconomy, is it possible to forbear de-

spising the refinements of other nations, who employ so much artifice and mystery to render themselves splendidly miserable ?

A state thus simply governed hath need of but few laws, while in proportion as it becomes necessary to promulgate new ones, that necessity is universally apparent. The first person who proposes them, takes on himself to speak only what every one hath already thought ; and neither eloquence nor intrigue is requisite to make that pass into a law, which every one had already resolved to do, as soon as he should be assured others would do the same.

That which deceives our reasoners on this subject, is, that, seeing none but such states as were badly constituted at their beginning, they are struck with the impossibility of maintaining such a police in them. They smile to think of the absurdities, into which a designing knave or insinuating orator might lead the people of Paris and London. They are not apprized that a Cromwell, and a Beaufort, would have been treated as incendiaries at Berne and Geneva, and have underwent the discipline due to their demerit.

But

But when the bonds of society begin to relax, and the state to grow weak; when the private interests of individuals begin to appear, and that of parties to influence the state, the objects of public good meet with opposition; unanimity no longer presides in the assemblies of the people; the general will is no longer the will of all; contradictions and debates arise, and the most salutary counsel is not adopted without dispute.

Again, when the state is bordering on ruin, and exists only in empty form, when the social tie no longer connects the hearts of the people, when the basest motives of interest impudently assume the sacred name of the public good; then is the general will altogether silent; individuals, actuated by private motives, cherish no more the sentiments of citizens, than if the state had never existed, while the mock legislature pass, under the name of laws, those iniquitous decrees which have no other end than private interest.

Doth it follow from hence, however, that the general will is annihilated or corrupted? No. This remains ever constant, invariable, and

and pure ; though it is subjected to that of party. There is not an individual who doth not see, while he detaches his own interest from that of the public, that he cannot separate himself from it entirely : but his share in the common evil seems nothing in comparison to the good which he proposes to secure exclusively to himself. Setting this motive aside, he is as ready to concur in measures for the good of the public, and that even for his own sake as any one. Nay, even in selling his vote, he doth not lose all sense of the general will ; he only eludes it. The fault he is guilty of, lies in changing the state of the question, and making an answer to what is not asked him ; so that, instead of admitting by his vote, *that it is to the interest of the state*, he says, *it is to the interest of such an individual or such a party, that this or that law should pass*. Thus the order which should prevail in the public assemblies of the state, should not be calculated so much to preserve the general will inviolate, as to cause it to be always interrogated, and to make it answer.

I might here make a variety of reflections on the simple right of voting in every act of the sovereignty ; a right which the citizens cannot be deprived of : as also on the rights of
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thinking, proposing and debating on public matters; privileges which government is ever solicitous enough to confine to its own members. This subject, however, is of importance enough to deserve a whole treatise of itself; and it is impossible for me to say every thing in the present.

CHAP. II.

On Votes.

IT is evident, from what hath been said in the preceding chapter, that the manner in which public affairs are carried on, may afford a sure indication of the actual state of manners, and the health of the body politic. The more concord there is in public assemblies, that is to say, the nearer the members approach to unanimity in giving their votes, the more prevalent is the general will among them: but long debates, dissensions and commotions, evince the ascendancy of particular interests and the decline of the state.

This appears less evident, indeed, when two or more orders of men, enter into the constitution; as at Rome, where the quarrels of the Pa-

Patricians and Plebeians occasioned frequent disturbances in the *Comitia*, even in the most flourishing times of the republic. This exception however, is more apparent than real: as in that case there exists, by a defect inherent in the body politic, two states in one; and that which is not true of both together, may nevertheless be true of each apart. It is also true in fact that, even during the most turbulent times of the republic, the decrees of the Plebeians, when the Senate did not intermeddle, were passed with great tranquillity agreeable to the plurality of voices. The citizens having but one common interest, the people could have but one will.

Unanimity returns again at the opposite extremity of the circle; and this is where the citizens, reduced to slavery, have neither liberty nor will. In such a situation, fear and flattery pervert their votes into acclamations; they no longer deliberate among themselves; but either adore or curse their tyrants. Such were the debased principles of the Senate under the Roman emperors. Under these circumstances also, the sentiments of the public were frequently expressed, with the most ridiculous precaution; Tacitus observing that, under Otho, the

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Senators, while they loaded Vitellius with execrations, they affected at the same time to make a confused and clamorous noise, in order to prevent his knowing, should he become their master, what any individual had said.

From these considerations may be deduced the maxims, on which the manner of counting votes, and comparing different suffrages, should be regulated, according as the general will is more or less easy to be discovered, and the state more or less advanced towards its decline. There is but one law, which in its own nature, requires unanimous consent: and this is the social compact. For civil association is the most voluntary act in the world: every man being born free, and master of himself, no one can lay him under restraint, on any pretence whatever, without his own consent. To affirm that the son of a slave is born a slave, is to affirm he is not born a man.

If there be any persons, however, who oppose this contract itself, their opposition does not invalidate that contract; it only hinders their being comprehended therein; and they remain aliens in the midst of citizens. When
a state

a state is formed, a consent to its institution is inferred by the residence of the party: to submit to residence in any country is to submit to its sovereignty*.

If we except this primitive contract, the determination of the majority is always obligatory on the rest: this is a necessary consequence of the contract itself. But it may be asked, how can a man be free, and yet be obliged to conform to the will of others. How can the members of an opposition be called free-men, who are compelled to submit to laws which they have not consented to? I answer that this question is not properly stated. The citizen consents to all laws passed by a majority, though some of them in particular may have passed contrary to his inclination; nay he consents to those by which he is punishable for the breach of

* This must always be understood, however, of a free state, from which people have the liberty to depart with their effects at pleasure. For in others the consideration of their family, their property, the want of an asylum, necessity or violence, may detain an inhabitant in a country contrary to his will; in which case, his simple residence neither implies his consent to the contract, nor his violation of it.

any one. The constant will of all the members of a state, is the general will; and it is this alone that makes them either citizens or freemen *. When a law is proposed in the assembly of the people, they are not precisely demanded, whether they severally approve or reject the proposition; but whether it be conformable or not to the general will, which is theirs as a collective body; each person, therefore, in giving his vote declares his opinion on this head, and on counting the votes, the declaration of the general will, is inferred from the majority. When a law thus passes contrary to my opinion, it proves nothing more than that I was mistaken, and that I concluded the general will to be what it really was not. So that, if my particular advice had been followed, it would have been contrary to my will,

* At Genoa we see the word *Libertas* inscribed on the chains of the galley slaves, and on the doors of the prisoners: the application of which device is beautiful and just; as it is in fact only the criminals of all states that infringe the liberty of the citizen. A country, whose malefactors should be all actually chained to the oar, would be a country of the most perfect liberty.

which

which as a citizen is the same as the general, and in that case I should not have been free.

This argument supposes, indeed, that all the characteristics of the general will, are contained in the plurality of votes: and when this ceases to be the case, take what course you will, there is an end of liberty.

In having shewn how the will of particulars and parties is substituted for the general, in public deliberations, I have already sufficiently pointed out the practicable means of preventing such abuses; of this, however, I shall speak further hereafter. With regard to the proportional number of votes that indicate this general will, I have also laid down the principles on which it may be determined. The difference of a single voice is enough to break the unanimity; but between unanimity and an equality there is a variety of proportions; to each of which the number in question may be applied, according to the circumstances of the body politic.

There are two general maxims, which may serve to regulate these proportions: the one is, that the more grave and important the deliberations,
the

the nearer ought the determination to approach to unanimity : the other is, that the more expedition the affair requires, the less should unanimity be insisted on. In deliberations where the matter should be immediately determined, the majority of a single vote should be sufficient. The first of these maxims seems most applicable to permanent laws, and the second to matters of business. But be this as it may, it is from their judicious combination, that the best proportions must be deduced, concerning that plurality in whose votes should be supposed to consist the general will.

CHAP. III.

Of Elections.

WITH regard to the election of a prince or of magistrates, which, as I before observed is a complicated act; there are two methods of proceeding; viz. by choice and by lot. They have each been made use of in different republics; and we see in our own times, a very intricate mixture of both in the election of the doge of Venice.

The preference by lot, says Montesquieu, is of the nature of a democracy. This I admit, but not for the reasons given. The choice by lot, says he, is a method which offends no-body; by permitting each citizen to entertain the reasonable hope of being preferred to the service of his country.

This, however, is not the true reason. If we reflect that the election of chiefs is a function of government and not of the sovereignty, we shall see the reason why this method is of the nature of a democracy, in which the administration is so much the better, as its acts are fewer.

In every real democracy the office of magistrate is not advantageous but expensive and burthensome, so that it were unjust to impose it on one person rather than another. The law, therefore, imposes that charge on him, to whose lot it falls. For in this case, all standing on equal chance, the choice doth not depend on human will, nor can any particular application change the universality of the law.

In an aristocracy the prince makes choice of the prince; and, the government providing for it-

itself, here it is that votes are properly applicable. The apparent exception, in the election of the doge of Venice, confirms this distinction, instead of destroying it: such a mixt form as is used by the Venetians is adapted to a mixt government. For it is a mistake to suppose the government of Venice a true aristocracy. If the lower order of people, indeed, have no share in the government, the nobility stand in their place, and become the people in respect to the administration. What a number is there of the inferior order of nobles, who stand no chance of ever getting into the magistracy, and reap no other advantage from their rank than the empty title of Excellency, and the privilege of sitting in the great Council. This great council being as numerous as our general council at Geneva, its illustrious members have no greater privileges therefore than our ordinary citizens. It is certain, that setting aside the extreme disparity of the two republics, the burghers of Geneva represent exactly the Patricians of Venice; our natives and sojourners represent the citizens and people, and our peasants the inhabitants of the *terra firma* belonging to that state. In a word, consider their Venetian republic in what light you will,

will, abstracted from its grandeur, its government, is no more aristocratical than that of Geneva. All the difference is that we have no occasion for this kind of election.

The choice by lot, is attended with very little inconvenience in a real democracy, when all men being nearly on an equality, as well with regard to manners and abilities, as to sentiments and fortune, the matter of choice is indifferent. But I have already observed a true democracy is only imaginary.

When the election is of a mixt form, viz. by vote and by lot, the first ought to provide for those officers which require proper talents, as in military affairs; the other being best adapted to those which require only common sense, honesty and integrity; such as the offices of judicature; because in a well-formed state, those qualities are possessed by all the citizens in common.

No election either by vote or lot, hath place under a monarchical government; the monarch himself being the only rightful prince and legal magistrate, the choice of his substitute is vested
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in him alone. When the Abbé de St. Pierre, therefore, proposed to increase the number of the king's councils in France, and to elect their members by ballot, he was not aware that he proposed to change the form of the French government.

It remains to speak of the manner of giving and collecting votes in popular assemblies; but, perhaps, an historical sketch of the Roman police relating to this point, will explain it better than all the maxims I should endeavour to establish. It is worth the pains of a judicious reader, to attend a little particularly to the manner, in which they treated affairs, both general and particular, in a council of two hundred thousand persons.

CHAP. IV.

Of the Roman Comitia.

WE have no authentic monuments of the earliest ages of Rome; there is even great reason to believe that most of the stories told us of them are fabulous*; and indeed, the most interesting and instructive part of the annals of nations in general, which is that of their establishment, is the most imperfect. Experience daily teaches us to what causes are owing the revolutions of kingdoms and empires; but as we see no instances of the original formation of states, we can only proceed on conjectures in treating this subject.

The customs we find actually established, however, sufficiently attest, there must have been an origin of those customs. Those traditions,

* The name of *Rome*, which it is pretended was taken from *Romulus*, is Greek, and signifies *force*; the name of *Numa* is Greek also, and signifies *law*. What probability is there that the two first kings of this city should have been called by names so expressive of their future actions?

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also, relating to such origin, which appear the most rational, and of the best authority, ought to pass for the most certain. These are the maxims I have adopted in tracing the manner in which the most powerful and free people in the universe, exercised the sovereign authority.

After the foundation of Rome, the rising republic, that is to say, the army of the founder, composed of Albans, Sabines and foreigners, was divided into three classes; which, from that division, took the name of tribes. Each of these tribes was subdivided into ten *Curia*, and each *Curia* into *decuria*, at the head of which were placed chiefs respectively denominated *curiones* and *decuriones*.

Beside this, there were selected from each tribe a body of an hundred cavaliers or knights, called *centurions*; by which it is evident that these divisions, not being essential to the good order of a city, were at first only military. But it seems as if the presaging instinct of future greatness, induced the little town of Rome to adopt at first a system of police proper for the metropolis of the world.

From this primitive division, however, there speedily resulted an inconvenience. This was that the tribe of Albans, and that of the Sabines always remaining the same, while that of the strangers was perpetually encreasing by the concourse of foreigners, the latter soon surpassed the number of the two former. The remedy which Servius applied to correct this dangerous abuse was to change the division; and to substitute, in the room of distinction of race, which he abolished, another taken from the parts of the town occupied by each tribe. Instead of three tribes, he constituted four; each of which occupied one of the hills of Rome, and bore its name. Thus by removing this inequality for the present, he prevented it also for the future; and in order that such division should not only be local but personal, he prohibited the inhabitants of one quarter of the city, from removing to the other, and thereby prevented the mixture of families.

He doubled also the three ancient centuries of cavalry, and made an addition of twelve others, but always under their old denomination; a simple and judicious method, by which he compleatly distinguished the body of knights from

from that of the people, without exciting the murmurs of the latter.

Again, to these four city tribes, Servius added fifteen others, called rustic tribes, because they were formed of the inhabitants of the country, divided into as many cantons. In the sequel were made an equal number of new divisions, and the Roman people found themselves divided into thirty-five tribes; the number at which their divisions remained fixed, till the final dissolution of the republic.

From the distinction between the tribes of city and country, resulted an effect worthy of observation; because we have no other example of it, and because Rome was at once indebted to it for the preservation of its manners and the increase of its empire. It might be conceived the city tribes would soon arrogate to themselves, the power and honours of the state, and treat the rustics with contempt. The effect, nevertheless, was directly contrary. The taste of the ancient Romans for a country life is well known. They derived this taste from the wise institutor, who joined to liberty the labours of the peasant and the foldier, and consigned, as

it were, to the city, the cultivation of the arts, trade, intrigue, fortune and slavery.

Thus the most illustrious personages of Rome, living in the country, and employing themselves in the business of agriculture, it was among these only the Romans looked for the defenders of their republic. This station, being that of the most worthy patricians, was held in universal esteem: the simple and laborious life of the villager was preferred to the mean and lazy life of the citizen; and a person who, having been a labourer in the country, became a respectable house-keeper in town, was yet held in contempt. It is with reason, says Varro, that our magnanimous ancestors established in the country the nursery for those robust and brave men, who defended them in time of war and cherished them in peace. Again, Pliny says in express terms, the country tribes were honoured because of the persons of which they were composed; whereas such of their individuals as were to be treated with ignominy, were removed into the tribes of the city. When the Sabine, Appius Claudius, came to settle in Rome, he was loaded with honours, and registered in one of the rustic tribes, which afterwards took the

the name of his family. Lastly, the freed-men were all entered in the city tribes, never in the rural; nor is there one single instance, during the existence of the republic, of any one of these freedmen being preferred to the magistracy, although become a citizen.

This was an excellent maxim, but was carried so far, that it effected an alteration, and undoubtedly an abuse in the police of the state.

In the first place, the Censors, after having long arrogated the right of arbitrarily removing the citizens from one tribe to another, permitted the greater part to register themselves in whatever tribe they pleased; a permission that could surely answer no good end, and yet it deprived these officers of one of their severest methods of censure. Besides, as the great and powerful thus got themselves registered in the rural tribes; and the freedmen, with the populace, only filled up those of the city; the tribes in general had no longer a local distinction: but were so strangely mixed and jumbled together, that their respective members could be known only by appealing to the registers; so that the idea attached to the word tribe,

was changed from real to personal, or rather became altogether chimerical.

It happened also that the tribes of the city, being nearer at hand, had generally the greatest influence in the *Comitia*, and made a property of the state, by selling their votes to those who were base enough to purchase them.

With regard to the *Curiae*, ten having been instituted in each tribe, the whole Roman people, included within the walls, made up thirty *Curiae*, each of which had their peculiar temples, their gods, officers and feasts called *Comptalia*, resembling the *paganalia*, afterwards instituted among the rustic tribes.

At the new division made by Servius, the number thirty not being equally divisible among the four tribes, he forbore to meddle with this mode of distribution; and the *Curiae*, thus independent of the tribes, formed another division of the inhabitants. No notice, however, was taken of the *Curiae*, either among the rustic tribes, or the people composing them; because the tribes becoming a mere civil establishment, and another method having been introduced for raising

raising the troops, the military distinctions of Romulus were dropt as superfluous. Thus, though every citizen was registered in some tribe, yet many of them were not included in any *curia*. Servius made still a third division, which had no relation to the two former, and became in its consequences the most important of all. He divided the whole Roman people into six classes, which he distinguished, neither by persons nor place, but by property. Of these the higher classes were filled by the rich, the lower by the poor, and the middle classes by those of middling fortunes. These six classes were subdivided into one hundred ninety-three other bodies called centuries; and these were again so distributed that the first class alone comprehended more than half the number of centuries, and the last class only one single century. In this method the class that contained the fewest persons, had the greater number of centuries; and the last class was in number only a subdivision, although it contained more than half the inhabitants of Rome.

In order that the people should penetrate less into the design of this latter form of distribution, Servius affected to give it the air of a mi-

litary one. In the second class he incorporated two centuries of armourers, and annexed two instruments of war to the fourth. In each class, except the last, he distinguished also between the young and the old, that is to say, those who were obliged to bear arms, from those who were exempted from it on account of their age; a distinction which gave more frequent rise to the repetition of the *census* or enumeration of them, than even the shifting of property: lastly, he required their assembly to be made on the *Campus Martius*, where all those who were of age for the service were to appear under arms.

The reason, why he did not pursue the same distinction of age in the last class, was, that the populace, of which it was composed, were not permitted to have the honour of bearing arms in the service of their country. It was necessary to be house-keepers, in order to attain the privilege of defending themselves. There is not one private centinel perhaps, of all those innumerable troops, that make so brilliant a figure in the armies of modern princes, who would not, for want of property, have been driven out with disdain from a Roman Cohort, when soldiers were the defenders of liberty.

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In the last class, however, there was a distinction made between what they called *proletarii* and those denominated *capite censi*. The former, not quite reduced to nothing, supplied the state at least with citizens, and sometimes on pressing occasions with soldiers. As to those, who were totally destitute of substance, and could be numbered only by capitation, they were disregarded as nothing; Marius being the first who deigned to enroll them.

Without taking upon me here to decide, whether this third species of division be in itself good or ill; I may venture safely to affirm, that nothing less than that simplicity of manners, which prevailed among the ancient Romans, their disinterestedness, their taste for agriculture, their contempt for trade and the thirst of gain, could have rendered it practicable. Where is the nation among the moderns, in which voracious avarice, a turbulence of disposition, a spirit of artifice, and the continual fluctuation of property, would permit such an establishment to continue for twenty years without overturning the state? Nay it must be well observed that the purity of the Roman manners, and the force of a censure more efficacious than the in-

stitution itself, served to correct the defects of it at Rome, where a rich man was often removed from his own class and ranked among the poor, for making an improper parade of his wealth.

It is easy to comprehend from this, why mention is hardly ever made of more than five classes, though there were in reality six. The sixth, furnishing neither the army with soldiers, nor the *Campus Martius* * with voters, and being of hardly any use in the republic, was hardly ever accounted any thing.

Such were the different divisions of the Roman people. We will now examine into the defects, of which they were productive, in their assemblies. These assemblies, when legally convoked, were denominated *Comitia*, and were held in the *Campus Martius* and other parts of Rome; being distinguished into *curiata*, *centuriata*, and *tributa*, according to the three grand divisions

* I say the *Campus Martius*, because it was there the *Comitia* assembled by centuries; in the two other forms, they assembled in the *forum* and other places, where the *capite censi* had as much influence and importance as the principal citizens.

of the people into *Curia*, *Centuries*, and *Tribes*. The *Comitia curiata* were instituted by Romulus, the *Centuriata* by Servius, and the *Tributa* by the tribunes of the people. Nothing could pass into a law, nor could any magistrate be chosen but in the *Comitia*, and as there was no citizen who was not enrolled in a *Guria*, *Century* or *Tribe*, it follows that no citizen was excluded from giving his vote; so that the Roman people were truly sovereign both in right and fact.

To make the assembly of the *Comitia* legal, and give their determinations the force of laws, three conditions were requisite. In the first place it was necessary that the magistrate or body convoking them, should be invested with proper authority for so doing: Secondly, that the assembly should occur on the days permitted by law; and thirdly, that the augurs should be favourable to their meeting.

The reason of the first condition needs no explanation: The second is an affair of police; thus it was not permitted the *Comitia* to assemble on market days, when the country people, coming to Rome on business, would be prevented from transacting it. By the third, the Senate kept a fierce and turbulent multitude

under some restraint, and opportunely checked the ardour of the seditious tribunes; the latter, however, found more ways than one to elude the force of this expedient.

But the laws and the election of the chiefs were not the only matters submitted to the determination of the *Comitia*: the Roman people having usurped the most important functions of government, the fate of Europe might be said to depend on their assemblies. Hence the variety of objects that came before them, gave occasion for divers alterations in the form of these assemblies, according to the nature of those objects.

To judge of these diversities, it is sufficient to compare them together. The design of Romulus in instituting the *Curia*, was to restrain the Senate by means of the people, and the people by the Senate, while he himself maintained his influence equally over both. By this form, therefore, he gave to the people all the authority of number to counterballance that of power and riches, which he left in the hands of the Patricians. But, agreeable to the spirit of monarchy, he gave more advantage to the Patricians, by the influence of their clients to obtain

tain the majority of votes. This admirable institution of patrons and clients, was a masterpiece of politics and humanity, without which the order of Patricians, so contrary to the spirit of the republic, could not have subsisted. Rome alone hath the honour of giving to the world this fine example, of which no abuse is known to have been made, and which nevertheless hath never been adopted by other nations.

This division by *Curiae* having subsisted under the kings till the time of Servius, and the reign of the last *Tarquin* being accounted illegal, the regal laws came hence to be generally distinguished by the name of *leges curiatae*.

Under the republic, the *Curiae*, always confined to the four city tribes, and comprehending only the populace of Rome, could not arrive either at the honour of sitting in the Senate, which was at the head of the Patricians, or at that of being Tribunes, which, notwithstanding they were Plebeians, were yet at the head of the citizens in easy circumstances. They fell, therefore, into discredit, and were reduced to so contemptible a state that their thirty *Lictors* assembled to do the whole business of the *Comitia curiata*.

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The division by *centuries*, was so favourable to aristocracy, that it is not at first easy to comprehend why the Senate did not always carry their point in the *Comitia centuriata*, by which the Consuls, Censors, and Prætors were chosen. It is in fact certain that out of the hundred and ninety three centuries, forming the six classes of the whole Roman people, the first class containing ninety eight of them, and the votes being reckoned only centuries, this first class alone had more votes than all the others. When the centuries of this class, therefore, were found to be unanimous, they proceeded no farther in counting votes; whatever might be determined by the minority being considered as the opinion of the mob. So that it might be justly said, that in the *Comitia centuriata* matters were carried rather by the greater quantity of money, than the majority of votes.

But this extreme authority was moderated by two causes. In the first place the Tribunes, generally speaking, and always a considerable number of wealthy citizens, being in this class of the rich, they counterpoized the credit of the Patricians in the same class. The second cause lay in the manner of voting, which was this; the centuries, instead of voting according

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to order, beginning with the first in rank, cast lots which should proceed first to the election. And to this the century whose lot it was, proceeded * alone; the other centuries being called upon another day to give their votes according to their rank, when they repeated the same election, and usually confirmed the choice of the former. By this method the preference of rank was set aside, in order to give it according to lot, agreeable to the principles of democracy.

There is another advantage resulting from this custom; which is that the citizens residing in the country had time between the two elections to inform themselves of the merit of the candidates thus provisionally nominated; by which means they might be better enabled to give their vote. But under the pretence of expediting affairs, this custom was in time abolished, and the two elections were made the same day.

* The century thus preferred by lot was called *prærogativa*; because it was the first whose suffrage was demanded; and hence is derived the word *prerogative*.

The *Comitia by Tribes*, were properly speaking the great council of the Roman people. These were convoked only by the Tribunes; by these also the Tribunes were chosen, and by these the *plebiscita* or laws of the people were passed. The Senators were not only destitute of rank in these assemblies; they had not even the right to be present at them; but, obliged to pay obedience to laws in the enacting of which they had no vote, they were in that respect less free than the lowest citizens. This injustice, however, was very ill understood, and was in itself alone sufficient to invalidate the decrees of a body, whose members were not all admitted to vote. Had all the Patricians assisted at these *Comitia*, as they had a right, in quality of citizens, they could have had no undue influence where every man's vote was equal, even from the lowest of the people to the highest personage of the state.

It is evident, therefore, that, exclusive of the good order that resulted from these several divisions, in collecting the votes of so numerous a people, the form and method of these divisions were not indifferent in themselves; each being productive of effects, adapted to certain

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certain views in regard to which it was preferable to any other.

But without entering into a more circumstantial account of these matters, it is plain from what hath been advanced, that the *Comitia tribunata* were the most favourable to a popular government, and the *Comitia centuriata* to an aristocracy. With respect to the *Comitia curia* of which the populace formed the majority, as they were good for nothing but to favour tyrannical designs, they remained in this contemptible state, into which they were fallen; even the contrivers of sedition themselves not chusing to employ means, which must have exposed too openly their designs. It is very certain that all the majesty of the Roman people was displayed only in the *Comitia centuriata*, which only were compleat; the *curiata* wanting the rustic Tribes, and the *tribunata* the Senate and Patricians.

With regard to the method of collecting the votes, it was, among the primitive Romans, simple as their manners, though still less simple than that of Sparta. Every one gave his vote aloud, which the register took down in writing; the plurality of votes in each tribe, determined the vote of that tribe, and the plurality of votes in the
tribes

tribes determined the suffrage of the people. In the same manner also they proceeded with regard to the *Curiae* and the centuries. This custom was a very good one, so long as integrity prevailed among the citizens, and every one was ashamed to give his public sanction to an unworthy person or cause. But when the people grew corrupt and sold their votes, it became necessary to make them give their votes more privately, in order to restrain the purchasers by distrust, and afford knaves an expedient to avoid being traitors.

I know that Cicero censures this alteration, and attributes to it in a great degree the ruin of the republic. But, though I am sensible of all the weight of Cicero's authority in this case, I cannot be of his opinion. I conceive, on the contrary, that the ruin of the state would have been accelerated, had the Romans neglected making this alteration. As the regimen of people in health, is not proper for the sick, so it is absurd to think of governing a corrupt people by the same laws as were expedient for them before they were corrupted. There cannot be a stronger proof of this maxim, than the duration of the republic of Venice, the shadow of which still exists, solely because its laws are adapted only to bad men.

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On this change in the manner of voting, tablets were distributed among the citizens, by means of which they could give their suffrage without its being known. On this occasion other methods were of course made use of in collecting votes, such as counting the number of voices, comparing it with that of the tablets, &c. Not that these methods were so effectual as to prevent the returning officers * from being often suspected of partiality : and it is plain in the sequel, by the multiplicity of laws made to prevent bribery and corruption in elections, that they could not effect this point.

Toward the decline of the republic, recourse was had to very extraordinary expedients, to make up for the insufficiency of the laws. Prodiges were sometimes played off with success ; but this scheme, though it imposed on the multitude, did not impose on those who influenced them. Sometimes assemblies were called suddenly, and in great haste, that the candidates might not have time to create an undue interest : at others again the whole session was spent in declamation, when it was seen that the people

* Custodes, ditibitores, rogatores, suffragiorum.

were

were biassed to take a wrong side. At length, however, ambition eluded all these precautions, and it is almost incredible that, in the midst of so many abuses, this immense people still continued, by virtue of their ancient laws, to elect their magistrates, to pass laws, to judge causes, and to expedite both public and private affairs, with as much facility as could have been done in the Senate itself.

C H A P. V.

On a Tribune.

WHEN it is impracticable to establish an exact proportion between the component parts of a state, or that inevitable causes perpetually operate to change their relations, a particular magistracy is instituted which, not incorporating with the rest, replaces every term in its true relation, and constitutes in itself a due medium either between the prince and the people, between the prince and the sovereign, or, in cases of necessity, at once between both.

This body, which I shall call a *Tribunate*, is the preserver of the laws and of the legislative power.

power. It serves sometimes to protect the sovereign against the government, as the tribunes of the people did at Rome; sometimes to protect the government against the people, as at present the council of the *ten* do at Venice; and again at others to maintain an equilibrium both on the one part and the other, as did the Ephori at Sparta.

The Tribunate is not a constitutional part of the city, and ought not, therefore, to have any share in the legislative or executive power: even in this however, its own is much greater: for being able to do nothing itself, it may prevent any thing from being done by others. It is more sacred and revered, as defender of the laws, than the prince who executes them, or the sovereign who enacts them. This was very evident at Rome, when the haughty Patricians, who always despised the people collectively, were nevertheless obliged to give place to their common officers, without command or jurisdiction.

The Tribunate when judiciously moderated is the firmest support of a good constitution; but if it have ever so little ascendancy of power,
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it subverts every thing. With regard to its weakness it is not natural to it; for, provided it have any existence at all, it can never have too little power.

It degenerates into tyranny when it usurps the executive power, of which it is only the moderator, and when it would interpret the laws which it should only protect. The enormous power of the Ephori, which was exercised without danger, while Sparta retained its purity of manners, served only to increase the corruption of them when once begun. The blood of Agis spilt by those tyrants was revenged by his successor: the crime and the punishment of the Ephori accelerated equally the ruin of that republic; for after the time of Cleomenes Sparta was nothing. The destruction of the Roman republic was effected in the same manner: the excessive power which the Tribunes by degrees usurped, served at length, with the help of the laws made in defence of liberty, as a security to the Emperors who destroyed it. As for the council of *ten* at Venice; it is a most sanguinary tribunal, equally horrible to the Patricians and the people, and which is so far from openly protecting the laws, that it now serves but secretly to effect the breach of them.

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The Tribunate is enfeebled, as well as the government, by increasing the number of its members. When the Roman Tribunes, at first two, and afterwards five, had a mind to double their number, the Senate did not oppose it; being well assured they should be able to make one a curb to another; which was actually the case.

The best way to prevent the usurpations of so formidable a body, a way that no government hath hitherto adopted, would be to render such a body not permanent, but to regulate the intervals during which it should remain dissolved. These intervals which should not be so great as to give abuses time to strengthen into customs, might be fixed by law, in such a manner that it would be easy to abridge them, in case of necessity by extraordinary commission.

This method appears to me, to be attended with no inconvenience; because, as I have already observed, the Tribunate making no essential part of the constitution, may be suppressed without injury: and it appears to me effectual, because a magistrate newly re-established doth not succeed to the power of his predecessor, but to that which the law confers on him.

C H A P. VI.

Of the Dictature.

THAT inflexibility of the laws, which prevents their yielding to circumstances, may in some cases render them hurtful, and in some critical juncture bring on the ruin of the state. The order and prolixity of forms, take up a length of time, of which the occasion will not always admit. A thousand accidents may happen for which the legislature hath not provided; and it is a very necessary foresight to see that it is impossible to provide for every thing.

We should not be desirous, therefore, of establishing the laws so firmly as to suspend their effects. Even Sparta itself sometimes permitted the laws to lie dormant.

Nothing, however, but the certainty of greater danger should induce a people to make any alteration in government; nor should the sacred power of the laws be ever restrained unless the public safety is concerned. In such uncommon cases, when the danger is manifest, the public safety may be provided for by a particular act, which commits the charge of it to those who
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are most worthy. Such a commission may pass, in two different ways, according to the nature of the danger.

If the case require only a greater activity in the government, it should be confined to one or two members; in which case it would not be the authority of the laws, but the form of the administration only that would be changed. But if the danger be of such a nature, that the formality of the laws would prevent a remedy, then a supreme chief might be nominated who should silence the laws, and suspend for a moment the sovereign authority. In such a case, the general Will cannot be doubted, it being evident that the principal intention of the people must be to save the state from perdition, By this mode of temporary suspension the legislative authority is not abolished; the magistrate who silences it, cannot make it speak, and though he over-rules cannot represent it; he may do every thing indeed but make laws.

The first method was taken by the Roman Senate, when it charged the consuls, in a sacred manner, to provide for the safety of the

common-wealth. The second took place when one of the consuls nominated a dictator*; a custom which Rome adopted from the example of Alba.

In the early times of the republic, the Romans had frequent recourse to the dictatorship, because the state had not then sufficient stability to support itself by the force of its constitution. The manners of the people, also, rendering those precautions unnecessary, which were taken in after-times, there was no fear that a dictator would abuse his authority, or that he would be tempted to keep it in his hands, beyond the term. On the contrary, it appeared that so great a power was burthenfome to the person invested with it, so eager were they to resign it; as if it were a difficult and dangerous post, to be superior to the laws.

Thus it was not the danger of the abuse, but of the debasement of this supreme magistracy,

* This nomination was secretly made in the night, as if they were ashamed of the action of placing any man so much above the laws.

that

that gave occasion to censure the indiscreet use of it, in ancient times. For when they came to prostitute it in the affair of elections and other matters of mere formality, it was very justly to be apprehended that it would become less respectable on pressing occasions ; and that the people would be apt to look upon an office as merely titular, which was instituted to assist at empty ceremonies.

Toward the end of the republic, the Romans, becoming more circumspect, were as sparing of the dictatorship, as they had before been prodigal of it. It was easy to see, however, that their fears were groundless, that the weakness of the capital was their security against the internal magistrates ; that a dictator might in some cases have acted in defence of public liberty, without ever making encroachments on it ; and that the Roman chains were not forged in Rome itself, but in its armies abroad. The weak resistance which Marius made to Sylla and Pompey to Cæsar, shewed plainly how little the authority from within the city could do against the power from without.

This error led them to commit great blunders. Such for instance, was their neglecting to appoint a dictator in the affair of Cataline. For, as it engaged only the city, or at most a province in Italy, a dictator invested with that unlimited authority which the laws conferred on him, might easily have dissipated that conspiracy, which was with difficulty suppressed by a numerous concurrence of fortunate circumstances; which human prudence had no reason to expect. Instead of that, the Senate contented itself with committing all its power into the hands of consuls; whence it happened that Cicero, in order to act effectually, was obliged to exceed that power in a capital circumstance; and though the public, in their first transports, approved of his conduct, he was very justly called to an account afterwards for the blood he had spilt contrary to the laws; a reproach they could not not have made to a dictator. But the eloquence of the consul carried all before it; and preferring, though a Roman, his own glory to his country, he thought less of the most legal, and certain method of saving the state, than the means of securing all the honour
of

of such a transaction to himself*. Thus was he very justly honoured as the deliverer of Rome, and as justly punished as the violator of its laws. For, however honourable was his repeal, it was certainly a matter of favour.

After all, in whatever manner this important commission may be conferred, it is of consequence to limit its duration to a short term; which should on no occasion be prolonged. In those conjunctures, when it is necessary to appoint a dictator, the state is presently saved or destroyed, which causes being over, the dictatorship becomes useless and tyrannical. At Rome, the dictators held their office only for six months; and the greater part resigned before that term expired. Had the time appointed been longer, it is to be apprehended they would have been tempted to make it longer still; as did the *decemvir* whose office lasted a whole year. The dictator had no more time allotted him than was necessary to dispatch the business for which he was appointed; so that he had not leisure to think of other projects.

* This is what he could not be certain of, in proposing a dictator; not daring to nominate himself, and not being assured his colleague would do it.

C H A P. VII.

Of the Censorship.

AS the declaration of the general will is made by the laws, so the declaration of the public judgment is made by their censure. The public opinion is a kind of law, which the Censor puts in execution, in particular cases, after the example of the prince.

So far, therefore, is the censorial tribunal from being the arbiter of popular opinions, it only declares them; and, whenever it departs from them, its decisions are vain and ineffectual.

It is useless to distinguish the manners of a nation by the objects of its esteem; for these depend on the same principle, and are necessarily confounded together. Among all people in the world, it is not nature, but opinion, which determines the choice of their pleasures. Correct the prejudices and opinions of men, and their manners will correct themselves. We always admire what is beautiful, or what appears so;

so; but it is in our judgment we are mistaken; it is this judgment then we are to regulate. Whoever judges of manners, takes upon him to judge of honour; and whoever judges of honour, decides from opinion.

The opinions of a people depend on the constitution; though the laws do not govern manners, it is the legislature that gives rise to them. As the legislature grows feeble, manners degenerate, but the judgment of the censors will not then effect what the power of the laws have not before effected.

It follows, hence, that the office of a censor may be useful to the preservation of manners, but never to their re-establishment. Establish censors during the vigour of the laws; when this is past, all is over; no legal means can be effectual when the laws have lost their force.

The censor is preservative of manners, by preventing the corruption of opinions, by maintaining their morality and propriety by judicious applications, and even sometimes by settling them when in a fluctuating situation. The use

of seconds in duels, though carried to the greatest excess in France, was abolished by the following words inserted in one of the kings edicts; *As to those who have the cowardice to call themselves seconds.* This judgment, anticipating that of the public, was effectual and put an end to that custom at once. But when the same edicts pronounced it cowardice to fight a duel; though it is certainly true, yet as it was contrary to the popular opinion, the public laughed at a determination so contrary to their own.

I have observed elsewhere * that the public opinion, being subjected to no constraint, there should be no appearance of it in the tribunal established to represent it. One cannot too much admire with what art this spring of action, entirely neglected among the moderns, was employed by the Romans, and still more effectually by the Lacedemonians.

A man of bad morals, having made an excellent proposal in the council at Sparta, the

* I do but slightly mention here, what I have treated more at large in my letter to M. d'Alembert.

Ephori,

Ephori, without taking any notice of it, caused the same proposal to be made by a citizen of character and virtue. How honourable was this proceeding to the one, and how disgraceful to the other; and that without directly praising or blaming either! Some drunkards of Samos, having behaved indecently in the tribunal of the Ephori, it was the next day permitted, by a public edict, that the Samians might become slaves. Would an actual punishment have been so severe as such impunity? When the Spartans had once passed their judgment on the decency or propriety of any behaviour, all Greece submitted to their opinion.

CHAP. VIII.

Of political Religion.

IN the first ages of the world, men had no other kings than gods, nor any other government than what was purely theocratical. It required a great alteration in their sentiments and ideas, before they could prevail on themselves, to look upon a fellow creature as a master, and think it went well with them.

Hence, a deity being constantly placed at the head of every political society, it followed that there was as many different gods as people. Two communities, personally strangers to each other, and almost always at variance, could not long acknowledge the same master; nor could two armies, drawn up against each other in battle, obey the same chief. Thus Polytheism became a natural consequence of the division of nations, and thence the want of civil and theological toleration, which are perfectly the same, as will be shewn hereafter.

The notion of the Greeks, in pretending to trace their own gods among those of the Barbarian nations, took its rise evidently from the ambition of being thought the natural sovereigns of those people. In this age, however, we think that a most absurd part of erudition, which relates to the identity of the deities of different nations, and according to which it is supposed that Moloch, Saturn and Chronos were one and the same god; and that the Baal of the Phenicians, the Zeus of the Greeks, and the Jupiter of the Latins were the same deity; as if any thing could be found in common
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between chimerical beings bearing different names !

If it be asked why there were no religious wars among the Pagans, when every state had thus its peculiar deity and worship ? I answer, it was plainly for this very reason, that each state having its own peculiar religion as well as government, no distinction was made between the obedience paid to their gods and that due to their laws. Thus their political were at the same time theological wars ; and the departments of their deities were prescribed by the limits of their respective nations. The god of one people had no authority over another people ; nor were these Pagan deities jealous of their prerogatives ; but divided the adoration of mankind amicably between them. Even Moses himself sometimes speaks in the same manner of the god of Israel. It is true the Hebrews despised the gods of the Canaanites, a people proscribed and devoted to destruction, whose possessions were given them for an inheritance : but they speak with more reverence of the deities of the neighbouring nations whom they were forbidden to attack. *Wilt thou not possess that,* says Jephtha to Sihon, king of the Ammonites,

nites, *which Chemosh thy God giveth thee to possess? So whomsoever the Lord our God shall drive out from before us, them will we possess.* There is in this passage, I think, an acknowledged similitude between the rights of Chemosh, and those of the God of Israel.

But when the Jews, being subjected to the kings of Babylon, and afterwards to those of Syria, persisted in refusing to acknowledge any god but their own, this refusal was esteemed an act of rebellion against their conqueror, and drew upon them those persecutions we read of in their history, and of which no other example is extant previous to the establishment of christianity*.

The religion of every people being thus exclusively annexed to the laws of the state, the only method of converting nations was to subdue them; warriors were the only missionaries; and the obligation of changing their religion being a law to the vanquished, they were first to be conquered before they were solicited on

* It is evident that the war of the Phocians, called an holy war was not a religious war. Its object was to punish sacrilege, and not to subdue infidels.

this

this head. So far were men from fighting for the gods, that their gods, like those of Homer, fought in behalf of mankind. Each people demanded the victory from its respective deity, and expressed their gratitude for it by the erection of new altars. The Romans before they besieged any fortress summoned its gods to abandon it; and though it be true they left the people of Tarentum in possession of their angry deities, it is plain they looked upon those gods as subjected and obliged to do homage to their own: They left the vanquished in possession of their religion as they sometimes did in that of their laws; a wreath for Jupiter of the Capitol, being often the only tribute they exacted.

At length, the Romans having extended their religion with their empire, and sometimes even adopted the deities of the vanquished, the people of this vast empire found themselves in possession of a multiplicity of gods and religions; which not differing essentially from each other, Paganism became insensibly one and the same religion throughout the world.

Things were in this state, when Jesus came to establish his spiritual kingdom on earth; a design

sign which, necessarily dividing the theological from the political system, gave rise to those intestine divisions which have ever since continued to embroil the profession of Christianity. Now this new idea of a kingdom in the other world, having never entered into the head of the Pagans, they regarded the Christians as actual rebels, who, under an hypocritical shew of humility, waited only a proper opportunity to render themselves independent, and artfully to usurp that authority, which in their weak and infant state they pretended to respect: and this was undoubtedly the cause of their being persecuted.

What the Pagans were apprehensive of, also, did, in process of time, actually come to pass. Things put on a new face, and the meek Christians, as their number increased, changed their tone, while their invisible kingdom of the other world, became, under a visible head, the most despotic and tyrannical in this.

As in all countries, however, there were civil governors, and laws, there resulted from this two-fold power a perpetual struggle for jurisdiction, which renders a perfect system of do-

domestic policy almost impossible in Christian states ; and prevents us from ever coming to a determination, whether it be the prince or the priest we are bound to obey.

Some nations indeed, even in Europe or its neighbourhood, have endeavoured to preserve or re-establish the ancient system, but without success ; the spirit of Christianity hath universally prevailed. Religious worship hath always remained, or again become independent of the sovereign, and without any necessary connection with the body of the state. Mahomet had very salutary and well-connected views in his political system, and so long as his modes of government subsisted under the caliphs and their successors, that government remained perfectly uniform, and so far good. But the Arabians becoming wealthy, learned, polite, indolent and cowardly, were subdued by the Barbarians : then the division between the two powers recommenced ; and though it be less apparent among the Mahometans than among Christians, it is nevertheless to be distinguished, particularly in the sect of Ali : there are some states, also, as in Persia, where this division is constantly perceptible.

Among

Among us, the kings of England are placed at the head of the church, as are also the Czars in Russia : but by this title they are not so properly masters as ministers of the religion of those countries : they are not possessed of the power to change it, but only to maintain its present form. Wherever the Clergy constitute a collective body*, they will be both masters and legislators in their own cause. There are therefore two sovereigns in England and Russia, as well as elsewhere.

Of all Christian authors, Mr. Hobbes was the only one who saw the evil and the remedy, and that hath ventured to propose the re-union

* It must be observed, that it is not so much the formal assemblies of the clergy, such as are held in France, which unite them together in a body, as the communion of their churches. Communion and excommunication form the social compact of the clergy ; a compact by means of which they will always maintain their ascendancy over both kings and people. All the priests that communicate together are fellow-citizens, though they should be personally as distant, as the extremities of the world. This invention is a master-piece in policy. The Pagan priests had nothing like it; and therefore never had any clerical body.

of the two heads of this eagle, and to restore that political union, without which no state or government can be well constituted. But he ought to have seen that the prevailing spirit of Christianity was incompatible with his system, and that the interest of the Church would be always too powerful for the state. It was not so much that which was really false and shocking in the writings of this philosopher, as what was really just and true, that rendered him odious*.

I conceive that, by a proper display of historical facts, in this point of view, it would be easy to refute the opposite sentiments both of Bayle and Warburton; the former of which pretends that no religion whatever can be of service to the body politic, and the latter that Christianity is its best and firmest support. It might be proved against the first, that every

* In a letter of Grotius to his brother, dated the 11th of April, 1643, may be seen what that great Civilian approved and blamed in his book *de jure*. It is true, that Grotius, being indulgent, seems inclined to forgive the author, the faults of his book, for the sake of its merits, the rest of the world, however, were not so candid.

state

state in the world hath been founded on the basis of religion ; and against the second, that the precepts of Christianity are at the bottom more prejudicial than conducive to the strength of the state.

In order to make myself fully understood, I need only give a little more precision to the vague ideas, generally entertained of political religion.

Religion, considered as it relates to society, which is either general or particular, may be distinguished into two kinds, viz. the religion of the man and that of the citizen. The first, destitute of temples, altars, or rites, confined purely to the internal worship of the supreme Being, and to the performance of the eternal duties of morality, is the pure and simple religion of the gospel ; this is genuine theism, and may be called the law of natural divinity. The other, adopted only in one country, whose gods and tutelary saints are hence peculiar to itself, is composed of certain dogmas, rites, and external modes of worship prescribed by the laws of such country ; all foreigners being accounted Infidels, Aliens and Barbarians ; this kind

kind of religion extends the duties and privileges of men no farther than to its own altars. Such were all the religions of primitive ages, to which may be given the name of the law of civil or positive divinity.

There is a third kind of religion still more extraordinary, which dividing society into two legislatures, two chiefs, and two parties, subjects mankind to contradictory obligations, and prevents them from being at once devotees and citizens. Such is the religion of the Lamas, of the Japanese, and of the Roman Catholics; which may be denominated the religion of the priests, and is productive of a sort of mixed and unfociable obligation, for which we have no name.

If we examine these three kinds of religion in a political light, they have all their faults. The third is so palpably defective that it would be mere loss of time, to point them out. Whatever contributes to dissolve the social union is good for nothing: all institutions which set man in contradiction with himself are of no use.

The

The second is so far commendable as it unites divine worship with a respect for the laws, and that, making the country the object of the people's adoration, the citizen is taught that to serve the state is to serve its tutelary divinity. This is a species of theocracy, in which there should be no other pontiff than the prince, no other priests than the magistrates. To die, in such a state, for their country, is to suffer martyrdom; to violate the laws is impiety; and to doom a criminal to public execration is to devote him to the anger of the gods.

It is blameable, however, in that, being founded on falsehood and deceit, it leads mankind into error; rendering them credulous and superstitious, it substitutes vain ceremonies instead of the true worship of the deity. It is further blameable, in that, becoming exclusive and tyrannical, it makes people sanguinary and persecuting; so that a nation shall sometimes breathe nothing but murder and massacre, and think, at the same time, they are doing an holy action in cutting the throats of those who worship the gods in a different manner from themselves. This circumstance places such a people
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in a natural state of war with all others, which is very unfavourable to their own safety.

There remains then only the rational and manly religion of Christianity; not however, as it is professed in modern times, but as it is displayed in the gospel, which is quite another thing. According to this holy, sublime, and true religion, mankind, being all the children of the same God, acknowledge themselves to be brothers, and the society which unites them dissolves only in death.

But this religion, having no particular relation to the body politic, leaves the laws in possession only of their own force, without adding any thing to it; by which means the firmest bonds of such particular society are of no effect. Add to this, that Christianity is so far from attaching the hearts of the citizens to the state, that it detaches them from it, as well as from all worldly objects in general: than which nothing can be more contrary to the spirit of society.

It is said that a nation of true Christians would form the most perfect society imaginable.

To

To this assertion, however, there is one great objection; and this is, that a society of true Christians would not be a society of men. Nay, I will go so far as to affirm, that this supposed society, with all its perfection, would neither be of the greatest strength nor duration. In consequence of its being perfect, it would want the strongest ties of connexion; and thus this very circumstance would destroy it.

Individuals might do their duty, the people might be obedient to the laws, the chiefs might be just, the magistrate incorrupt, the soldiery might look upon death with contempt, and there might prevail neither vanity nor luxury, in such a state. So far all would go well; but let us look farther.

Christianity is a spiritual religion, relative only to celestial objects: the Christian's inheritance, is not of this world. He performs his duty, it is true, but this he does with a profound indifference for the good or ill success of his endeavours. Provided he hath nothing to reproach himself with, it is of little importance to him whether matters go well or ill here below.

low. If the state be in a flourishing situation, he can hardly venture to rejoice in the public felicity, lest he should be puffed up with the inordinate pride of his country's glory ; if the state decline, he blesses the hand of God that humbles his people to the dust.

It is farther necessary to the peace and harmony of society, that all the citizens should be without exception equally good Christians ; for, if unhappily there should be one of them ambitious or hypocritical, if there should be found among them a Cataline or a Cromwell, it is certain he would make an easy prey of his pious countrymen. Christian charity doth not easily permit the thinking evil of one's neighbour. No sooner should an individual discover the art of imposing on the majority, and be invested with some portion of public authority, than he would become a dignitary. Christians must not speak evil of dignities ; thus respected, he would thence assume power ; Christians must obey the superior powers. Does the depository of power abuse it ? he becomes the rod by which it pleases God to chastise his children.

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And

And, would their consciences permit them to drive out the usurper, the public tranquillity must be broken, and violence and blood-shed succeed ; all this agrees but ill with the meekness of true Christians ; and, after all, what is it to them, whether they are freemen or slaves in this vale of misery ? Their essential concern is to work out their salvation, and obtain happiness in another world ; to effect which, their resignation in this, is held to be their duty.

Should such a state be forced into a war with any neighbouring power ? The citizens might march readily to the combat, without thinking of flight ; they might do their duty in the field, but they would have no ardour for victory ; being better instructed to die than to conquer. Of what consequence is it to them, whether they are victors or vanquished ? Think what advantages an impetuous and sanguine enemy might take of their stoicism ! draw them out against a brave and generous people, ardently inspired with the love of glory and their country ; suppose, for instance, your truly Christian republic against that of Sparta or of Rome ; what would be the consequence ? Your

devout Christians would be beaten, discomfited and knocked on the head, before they had time to look about them; their only security depending on the contempt which their enemy might entertain for them. It was, in my opinion, a fine oath that was taken by the soldiers of Fabius. They did not make a vow either to die or conquer; they swore they would return conquerors, and punctually performed their oath. Christian troops could not have made such a vow, they would have been afraid of tempting the Lord their God.

But I am all this while committing a blunder, in speaking of a Christian republic; one of these terms necessarily excluding the other. Christianity inculcates servitude and dependence; the spirit of it is too favourable to tyrants, for them not sometimes to profit by it. True Christians are formed for slaves; they know it, and never trouble themselves about conspiracies and insurrections; this transitory life is of too little value in their esteem.

Will it be said, the Christians are excellent soldiers? I deny it. Produce me your Chri-

ftian troops. For my part, I know of no true Christian foldiers. Do you name thofe of the Crufades? I anfwer, that, not to call in queftion the valour of the Crufaders, they were very far from being Christian citizens: they were the foldiers of the prieft, the citizens of the church; they fought for its fpiritual country, which fome how or other, it had converted into a temporal one. To fet this matter in the beft light, it was a kind of return to Paganifm; for as the gofpel did not eftablifh any national religion, an holy war could not poffibly be carried on by true Christians.

Under the Pagan emperors, the Christian foldiers were brave; of this all the Christian writers affure us, and I believe them; the motive of their bravery was a fpirit of honour or emulation, excited by the Pagan troops. But when the emperors became Christians, this motive of emulation no longer fubfifted; and when the Crofs had put the Eagle to flight, the Roman valour difappeared:

But, laying afide political confiderations, let us return to the matter of right, and afcertain

its true principles with regard to this important point. The right which the social compact confers on the sovereign, extending no farther than to public utility *, the subject is not accountable to that sovereign, on account of any opinions he may entertain, that have nothing to do with the community. Now, it is of great importance to a state, that every citizen should be of a religion that may inspire him with a regard for his duty; but the tenets of that religion are no farther interesting to the community than as they relate to morals, and to the discharge of those obligations, which the professor lies under to his fellow citizens. If we

* *In a republic, says the Marquis d'A. every one is perfectly at liberty, because no one may injure another.* This is the invariable limit of republican liberty, nor is it possible to state the case more precisely. I cannot deny myself the pleasure of sometimes quoting this manuscript, though unknown to the public, in order to do honour to the memory of an illustrious and respectable personage, who preserved the integrity of the citizen even in the ministry, and adopted the most upright and salutary views in the government of his country.

except these, the individual may profess what others he pleases, without the sovereign's having any right to interfere; for, having no jurisdiction in the other world, it is nothing to the sovereign what becomes of the citizens in a future life, provided they discharge the duties incumbent on them in the present.

There is a profession of Faith, therefore, purely political; the articles of which it is in the province of the sovereign to ascertain, not precisely as articles of religion, but as the sentiments due to society, without which it is impossible to be a good citizen or faithful subject *. Without compelling any one to adopt these sentiments, the sovereign may also equitably banish him the society; not indeed as impious, but as unsociable, as incapable of having a sincere re-

* Cæsar, in pleading for Cataline, endeavoured to establish the doctrine of the Mortality of the Soul: Cato and Cicero, in answer to him, did not enter into a philosophical discussion of the argument, but contented themselves with shewing that Cæsar had spoken like a bad citizen, and advanced a dogma pernicious to the state. And this was in fact the point only that came before the Senate of Rome, and not a question in theology.

gard

gard to justice, and of sacrificing his life, if required, to his duty. Again, should any one, after having made a public profession of such sentiments, betray his disbelief of them by his misconduct, he may equitably be punished with death; having committed the greatest of all crimes, that of belying his heart in the face of the laws.

The tenets of political religion should be few and simple; they should be laid down also with precision, and without explication or comment. The existence of a powerful, intelligent, beneficent, prescient and provident Deity; a future state; the reward of the virtuous and the punishment of the wicked; the sacred nature of the social contract, and of the laws; these should be its positive tenets. As to those of a negative kind I would confine myself solely to one, by forbidding persecution.

Those who affect to make a distinction between civil and religious toleration, are, in my opinion mistaken. It is impossible to live cordially in peace with those whom we firmly believe devoted to damnation: to love them would be to hate the Deity for punishing them, it is therefore absolutely necessary for us either to
per-

persecute or to convert them. Wherever the spirit of religious persecution subsists, it is impossible it should not have some effect on the civil police, in which case, the sovereign is no longer sovereign even in a secular view; the priests become the real masters, and kings only their officers.

In modern governments, where it is impossible to support an exclusive national religion, it is requisite to tolerate all such, as breathe the spirit of toleration toward others, provided their tenets are not contradictory to the duty of a good citizen. But whosoever should presume to say, *There is no salvation out of the pale of our church*, ought to be banished the state; unless indeed the state be an ecclesiastical one, and the prince a pontiff. Such a dogma is of use only in a theocratical government; in every other it is destructive. The reason which it is said Henry IV. gave, for embracing the Roman Catholic religion, ought to have made an honest man reject it, and more particularly a prince capable of reasoning on the subject.

CHAP. IX.

The Conclusion.

HAVING thus stated the true principles of politic law, and endeavoured to fix the state on its proper basis, it remains to shew in what manner it is supported by external relations.

Under this head would be comprehended, the laws of nations and commerce, the laws of war and conquest, leagues, negotiations, treaties, &c. But these present a new prospect, too vast and extensive for so short a sight as mine; which should be confined to objects less distant and more adapted to my limited capacity.

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